

103

# CONTROLLING THE FLOW OF ILLEGAL IMMIGRATION AT U.S. LAND BORDERS

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Y 4.G 74/7:IM 6/8

Controlling the Flow of Illegal Inn...

## HEARING

BEFORE THE

### INFORMATION, JUSTICE, TRANSPORTATION, AND AGRICULTURE SUBCOMMITTEE

OF THE

### COMMITTEE ON

### GOVERNMENT OPERATIONS

### HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

DECEMBER 10, 1993

Printed for the use of the Committee on Government Operations



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# CONTROLLING THE FLOW OF ILLEGAL IMMIGRATION AT U.S. LAND BORDERS

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FRIDAY, DECEMBER 10, 1993

HOUSE OF REPRESENTATIVES,  
INFORMATION, JUSTICE, TRANSPORTATION,  
AND AGRICULTURE SUBCOMMITTEE  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,  
*Los Angeles, CA.*

The subcommittee met, pursuant to notice, at 10:35 a.m., in the Samuel Greenberg Board Room, #1 World Way, Los Angeles International Airport, Los Angeles, CA, Hon. Gary A. Condit (chairman of the subcommittee) presiding.

Present: Representatives Gary A. Condit, Lynn C. Woolsey, and Stephen Horn.

Also present: Audrey A. Bashkin and Shannon M. Lahey, professional staff members; and Diane M. Major, minority professional staff, Committee on Government Operations.

## OPENING STATEMENT OF CHAIRMAN CONDIT

Mr. CONDIT. If I can have your attention, we will call the hearing of the subcommittee to order. We are holding this hearing in Los Angeles today because some of the serious problems facing the city and State have been ignored by the Federal Government for too long.

Last August, local and State officials testified in this very room, before this subcommittee about the serious budget crisis facing our local and State government. While populations continue to increase, vital services are being cut in order to balance local budgets. We focused on the Federal responsibility to provide reimbursement for costs associated with immigration and with all unfunded Federal mandates.

Our border with Mexico is highly vulnerable to illegal immigration and narcotics trafficking. More than 3,000 people illegally cross the border into California each day. Most of these individuals are headed for Los Angeles. Even more disturbing to me and my colleagues is the fact that drug traffickers are now using the overland transit of drugs through Central America and across our borders, as their preferred smuggling route.

According to the State Department, 70 percent of all cocaine smuggled into our country comes across the southwest border by trucks, cars, and individuals on foot. The enormous task of securing our Nation's 7,500 miles of land border, including the California/Mexico border, is shared by the Immigration and Nationalization

Service and the U.S. Customs Service. These agencies have joint control of the land border ports of entry.

Last year 436 million people applied for admissions at the border ports. That number has been projected to approach a half a billion by 1995. Experts agree that this number will increase with the implementation of NAFTA. Each person who applies for land entry into the United States must undergo inspection at one of the entry ports. The dual responsibility of INS and Customs to perform inspections means that each agency must do each other's job, in addition to its own.

Customs inspectors, for example, must look out for violations of U.S. Immigration laws, in addition to inspecting for drugs and other contraband. Similarly INS inspectors must check for Customs violations and illegal drugs, in addition to policing violations of immigration law. In order for this arrangement to work, INS and Customs must cooperate fully and communicate openly.

Unfortunately, cooperation and communication often has been the exception. For decades, the Federal Government has been issuing reports documenting bickering and rivalry between the two agencies. The most recent was a report released this past summer by the General Accounting Office. GAO discovered a situation so problematic that it concluded that the administration should propose ending the dual management of border inspection.

Today's hearing will be the first public congressional evaluation of the GAO report. We understand that since the report was issued, that INS and Customs have taken steps to address the problems described by the GAO report. A primary purpose of this hearing is to evaluate the state of affairs between the INS and Customs, and explore the GAO's recommendations, particularly in light of those remedial steps.

The scope of today's hearing extends beyond the subject of entry ports. Between the port lies extensive borders with varying degrees of vulnerability to illegal entry. Responsibility for preventing illegal immigration at the land border belongs mainly to the Border Patrol, a part of INS. Today we will also look at the Border Patrol's operation.

As a part of this review, we will explore a controversial blockade recently implemented by the Border Patrol at the border area surrounding El Paso, TX. In addition, Customs and INS will discuss their efforts to stop the influx of illegal drugs across the border. This morning's hearing is the eighth this subcommittee has conducted this year as a part of its indepth oversight of U.S. Immigration policy and problems associated with it.

As a Californian and my colleagues here are Californians as well, we recognize the importance of performing a comprehensive assessment of immigration policy. Along with an indepth understanding of the situation, we will be able to propose concrete solutions to some of the most pressing problems facing our State and the entire country. Developing these solutions is our ultimate goal in conducting these hearings. This hearing is a friendly hearing and it is meant to be a constructive one. I am delighted and honored that I have my two colleagues with me here today. I will turn to Mr. Horn and ask if Mr. Horn has an opening statement he would like to make.



Mr. HORN. Just a few brief comments, Mr. Chairman. I commend you for this series of hearings. I think they have been immensely constructive. I think this is one of the most important issues that faces our executive branch and the Congress. I suspect many of the sort of traditional aspects and theories of public administration involve that we need to be sorted through. I happen to have great respect for the professionalism of the Customs Service and the Immigration and Nationalization Service. I think we have long been in a crisis on our borders. This is not new. It is getting worse. The American people are becoming increasingly conscious of the problem and the American people are becoming increasingly upset that neither the executive branch, regardless of party, and the Congress seem to be able to get a handle on it.

There is no question in my mind both services are overwhelmed, overworked, and understaffed. I think we need to figure out a clear line of authority for the executive branch. If the President does not have the power to provide sufficient reorganization, Congress needs to give the President the power to focus on this problem and provide reorganization. We need to be talking about not only what Customs officers and Border Patrol officers can do of each other's duties, we must also talk about the unique functions each agency performs. It is easier said than done to suggest cross-training will solve the problem. We certainly should not go through the kind of nonsense that is apparently occurring on the borders where, if one agency doesn't have its share there, meaning the personnel for the day, the other agency doesn't match it. That is just crazy.

American drivers are waiting in lines for hours and we need to service those as rapidly as we can. So, I feel very strongly that we have got to sort out not only Customs/INS relations, we have got to sort out the supervisory, executive relations above them. We need to look at what, if any, help we can get from the National Guard, the various reserve forces, and the active military itself in backing up the Border Patrol. Now, that is no easy waving of the wand either.

The Border Patrol has language proficiency. We need to know if we have sufficient language proficiency. The Border Patrol is dealing with 85-year-olds and 5-year-olds. Younger people in the military are not trained to interact with those types of clientele. So, we need to sort that one out as well.

I regret, Mr. Chairman, I am going to have to leave after an hour, because today is the luncheon of the Long Beach Naval Shipyard, honoring Members of Congress that made sure it is still the Long Beach Naval Shipyard. As the one who put the coalition together, I am not about to miss that.

I deeply regret not being here for all the testimony, but I thank you for asking me to this hearing.

Mr. CONDIT. Mr. Horn, you have been a great member of this committee, and I appreciate you being here and the hour that you will spend here. We appreciate it so much. Can Ms. Woolsey and I help you keep that open?

Mr. HORN. What?

Mr. CONDIT. The shipping yard?

Mr. HORN. Absolutely.

Mr. CONDIT. Well, do you think we should go with you?

Ms. WOOLSEY. Will you bring us back some lunch?

Mr. HORN. You have such a collection of turkey sandwiches in there, I am not worried about you being fed.

Mr. CONDIT. We have turkey for everyone.

We are delighted to have Ms. Woolsey here today. Given her schedule, I thought it would be impossible for her to be here. I really appreciate the fact that she is here.

Do you have an opening statement that you would like to make?

Ms. WOOLSEY. Yes. Thank you, Mr. Chairman. First of all, I am relieved. I thought my colleague was going to say that he had enough turkeys up here with him.

Mr. CONDIT. Never.

Ms. WOOLSEY. Thank you. I would like to thank everyone who has come to testify on this important subject. I view this hearing as an important opportunity to tackle two very important related problems. First, we all need to work together to address the issue of illegal immigration in this country. Second, we must work especially hard to improve and streamline Government agencies with overlapping jurisdictions.

Newly elected Members of Congress, like myself, have taken a particular interest in Government reform. As cochair of the freshman class working group on Government personnel, I have dedicated a lot of time, particularly in the last couple of months, to the goal of making Government cost less and work better. I view this hearing as an important source of information for us, as we work to achieve this goal. Mr. Chairman, I express my appreciation to you, because you have worked so hard to put this hearing together. As we all know, this is only one in a series of subcommittee hearings by our chairman on immigration policies. All of them have been very productive and will undoubtedly contribute to the progress we must make on this issue.

The chairman has been of great service to the people of his congressional district and indeed the entire State of California. We should all be indebted to him in California for his hard work on the issue of immigration and border management.

I look forward to hearing from our witnesses.

Mr. CONDIT. Thank you very much.

Our first witness today is J. William Gadsby, a Director in the General Government Division of the General Accounting Office. Mr. Gadsby, we have a practice of swearing our witnesses in. I will ask your colleague to stand with us and then you may introduce him when we are finished.

[Witnesses sworn.]

Mr. GADSBY. With me, Mr. Chairman, is Mike Dino. Mike is from our Los Angeles regional office. He is one of the key people involved in work that we do on the border issues in the southwest border area. So, I asked him to join us this morning.

Mr. CONDIT. Welcome. We are glad you are here. It is D-I-N-O?

Mr. DINO. That is correct.

**STATEMENT OF J. WILLIAM GADSBY, DIRECTOR, GOVERNMENT BUSINESS OPERATIONS ISSUES, GENERAL GOVERNMENT DIVISION, U.S. GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY MICHAEL DINO, LOS ANGELES REGIONAL OFFICE**

Mr. GADSBY. If it is all right with you, I will summarize my statement.

Mr. CONDIT. Certainly.

Mr. GADSBY. I would ask that the whole statement be put in the record.

Mr. CONDIT. Without objection.

Mr. GADSBY. Mr. Chairman, I am pleased to be here today to discuss our June 1993 report on the coordination of Customs and INS operations at border ports and alternatives for improving those operations. Since 1930, numerous studies have focused on ways to improve operations along U.S. borders. The Congressional Research Service has compiled a summary of these studies. Generally, they show that border control deficiencies result from common problems, including interagency rivalry, and lack of coordination and cooperation.

Mr. Chairman, the goal of our study that we discussed in our report was to identify and highlight alternatives for improving those operations. By that I mean we didn't have a goal of basically trying to reconfirm these problems. Our main thrust was to focus on alternative solutions.

Our review showed that accountability for operation suffers under the dual management structure because each port has both Customs and INS Directors who report through their respective organizational channels. Basically, no one is in charge of overall port operations.

Because the operational problems along the southwest border are real and have persisted for many years, we, in cooperation with the National Academy of Public Administration, convened a panel of current and former public officials familiar with and experienced with Customs and Immigration activities. The purpose of that panel was to explore whether the problems were worth fixing and, if so, what solutions might be best. The panel members did not believe that the current dual management structure between INS and Customs was adequate to handle the Customs and INS demands that would likely confront the government in the next 10 to 30 years. They believe that management benefits could be gained by vesting responsibility in one agency. These benefits would include an improved capability to think strategically about related immigration and Customs issues and clearer accountability for border operations by having one spokesperson within the Government for issues surrounding the movement of people, goods, and services into the United States.

Throughout our review, we met with Customs and INS officials, congressional staff, OMB staff, union representatives, and affected interest groups to get their views. Through this process, we identified three options for improving operations. The first was improved cooperation within the existing framework of joint staffing of the primary lanes at ports of entry. The second was to establish one agency as the lead for primary inspections; and the third was to



create a border management agency by merging INS Border Patrol inspection functions with the Customs Service.

Our expert panel considered each of these options. The panel rejected the first option because of longstanding evidence that coordination between the agencies has just not been effective. The panelists noted that past Commissioners had found efforts to improve coordination required a disproportionate amount of time and effort and detracted from their ability to deal with other challenges and problems.

The second option, which was vesting responsibility for primary lane inspections with one agency, was also rejected, even though it has been supported by Customs and INS and some interest groups. The panelists felt that because both Customs and INS would want to have primary line responsibility or lane responsibility, strong opposition would come from the agency that would be consigned to doing secondary inspections.

The panelists also rejected the third option—creating a border management agency, because it did not give adequate consideration to the various other functions performed by INS. In this context, the panelists were concerned about breaking up INS and, thereby, both complicating efforts to develop coherent policy for addressing world immigration pressures and potentially demoralizing the agency.

Having rejected the three options, the panelists reached consensus for establishing an independent Immigration and Customs agency. The creation of such an agency was seen as supporting an opportunity to develop a more strategic and integrated vision within the Government for addressing the problems of facilitating entry and assimilation of people, services, and goods into the country.

Mr. Chairman, in closing, I would like to emphasize that we recommended that OMB work with Treasury, the Justice Department, Customs, and INS to basically develop a proposal for ending the dual management structure for primary inspections. We are pleased that efforts are underway to consider that. We are certainly pleased that the subcommittee is focusing attention on their work by holding this hearing.

That concludes my summary.

[The prepared statement of Mr. Gadsby follows:]

United States General Accounting Office

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GAO

Testimony

Before the Subcommittee on Information, Justice,  
Transportation, and Agriculture  
Committee on Government Operations  
House of Representatives

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Release on Delivery  
Expected at  
10:30 a.m. PST  
Friday  
December 10, 1993

## BORDER MANAGEMENT

### Dual Management Structure at Entry Ports Should End

Statement of J. William Gadsby  
Director, Government Business Operations Issues  
General Government Division





BORDER MANAGEMENT  
DUAL MANAGEMENT STRUCTURE AT  
ENTRY PORTS SHOULD END

SUMMARY OF STATEMENT OF  
J. WILLIAM GADSBY  
DIRECTOR, GOVERNMENT BUSINESS  
OPERATIONS ISSUES

The Customs Service and INS are the principal U.S. agencies providing inspection and clearance at U.S. border crossings. Customs is primarily responsible for the entry of goods and merchandise and INS handles the entry of persons. Customs and INS face persistent pressures to meet their enforcement responsibilities while minimizing disruptions to passenger and commercial traffic.

Customs and INS have a long history of interagency rivalry coupled with ineffective cooperation and coordination pertaining to border crossing operations. These problems still exist today, and are deeply ingrained in the management cultures of these agencies. Cooperation agreements that top Customs and INS officials signed during the 1977-79 time period generally have not been adhered to or updated.

On the basis of historical evidence as well as its recent review of Customs' and INS' operations, GAO believes that the coordination problems at the land border crossings will not be resolved until the current dual management structure is ended. GAO convened a panel of current and former public officials familiar and experienced with customs and immigration activities to explore whether the problems were worth fixing and, if so, what solution would be best. The panel members did not believe the current dual management structure between INS and Customs was adequate to handle the customs and immigrations service demands that will likely confront the government in the next 10 to 30 years.

The panelists discussed various organizational options and reached consensus for establishing an independent immigration and customs agency. The creation of such an agency was seen as affording an opportunity to develop a more strategic and integrated vision within the government for addressing the problems of facilitating the entry and assimilation of people, services, and goods into the country in compliance with applicable immigration and customs laws.

GAO recommended that the Director of OMB, working with the Secretary of the Treasury and the Attorney General, develop and present to Congress a proposal for ending the dual management of border inspections. GAO noted that efforts are underway within the Executive Branch to consider this issue..

Mr. Chairman, I am pleased to be here today to discuss our report on the coordination of Customs and INS operations at border crossing points and alternatives for improving those operations.

The Customs Service and INS are the principal U.S. agencies providing inspection and clearance at U.S. border crossings. Customs is primarily responsible for the entry of goods and merchandise and INS handles the entry of persons. Since 1930, numerous studies have focused on ways to improve customs and immigration operations along the U.S. borders. The Congressional Research Service has compiled a summary of these studies, at least seven of which occurred during the 1973-88 time frame alone. Generally, these studies show that border control deficiencies result from common problems, including interagency rivalry and a lack of coordination and cooperation.

Customs and INS face persistent pressures to meet their enforcement responsibilities while minimizing disruptions to passenger and commercial traffic. Such pressures are prevalent, particularly along land borders. In fiscal year 1991, approximately 420 million people--or 88 percent of all applicants--applied for admission to the United States at land border ports of entry. The North American Free Trade Agreement is expected to increase the volume of cross-border traffic and, in turn, the workloads of Customs and INS.

Coordination Problems Persist Despite  
Interagency Agreements

Throughout our review, both Customs and INS managers and inspectors told us that the initial inspections of vehicles and people crossing the border, commonly referred to as primary inspections, are critical in preventing the entry of illegal aliens, drugs, and contraband into the United States. In this regard, primary inspectors need sufficient training and experience to identify and refer entrants to secondary inspection areas for further questioning and/or searches.

In 1977, the commissioners of Customs and INS signed an agreement to make cross-designation training a top priority.

Its purpose was to help ensure that Customs and INS inspectors were capable of performing primary inspection duties for both agencies at ports of entry.

In 1978, the first joint regional agreement between the two agencies took effect. This agreement, which focused on the southwestern border, recognized the necessity of close cooperation and coordination at the regional, district, and port level. Among other things, this agreement required the agencies to develop standards for the maximum amount of traffic backup tolerable before opening additional primary lanes.

In 1979, the Customs and INS commissioners signed another agreement to further enhance primary inspection training and staffing cooperation along the U.S.-Mexican border. Under this agreement, the agencies were to periodically update the training of cross-designated inspectors, strive to achieve a 50-50 commitment for staffing primary inspection lanes at applicable southern border locations, and monitor the performance of cross-designated inspectors.

Our review showed that after their initial training, Customs and INS inspectors did not receive periodic updates of cross-designation training. Also, contrary to the 1979 agreement, Customs and INS officials have not monitored the performance of cross-designated inspectors by jointly studying the results of referrals from primary to secondary inspections. Generally, Customs and INS officials at the locations we visited believed that their respective inspectors do a good job of enforcing laws and regulations related to each agency's principal mission. However, each agency's officials questioned the effectiveness of the other agency's inspectors in performing cross-designated responsibilities.

Also, the Customs/INS agreement to strive for equal staffing of primary inspection lanes has not been updated since 1979, even though staffing imbalances have grown in the two agencies' southwestern border inspection efforts. In 1987, for example,

Customs had a total of 1,039 inspectors on board at southwestern border ports of entry, whereas INS was authorized only 640. By 1992, the southwestern border staffing imbalance became more pronounced, with Customs authorized a total of 1,603 inspectors and INS a total of 949. These staffing imbalances, coupled with increases in cross-border traffic, have contributed to operating inefficiencies between the two agencies.

#### Dual Management Structure Weakens

##### Operational Accountability

Mr. Chairman, our review showed that accountability for operations suffers under the dual management structure because, each port has both Customs and INS directors who report through their respective organizational channels. At the key ports of El Paso, Laredo and San Ysidro, Customs and INS inspectors and their first-line supervisors do not begin their daily entry lane work shifts with joint briefings for sharing intelligence and other operational concerns. Both Customs and INS officials told us that enforcement efforts suffer under the dual management structure because no one is in charge of overall port operations.

In addition, the dual management structure, combined with poor coordination between the agencies, results in each agency formulating its own long-range plans for land border inspections. These planning efforts perpetuate the potential for interagency



conflict. For example, at the time of our review, INS was contemplating a strategy for assuming responsibility for all primary inspections at land ports of entry.

The dual management approach also leads to separate performance measurement efforts and unnecessary costs. An INS headquarters official said there is a continuing issue concerning the adequacy of performance data-- both between the agencies and within INS. Both agencies are trying to develop a more coordinated set of statistics to cover border operations. But at the time of our review, Customs was focused on performance data regarding drug seizures, while INS was concerned principally with referrals for possible immigration law violations.

Also, prior studies of border operations have estimated that savings would accrue from consolidated operations. Customs, INS, and General Services Administration officials responsible for the construction of facilities at ports of entry all agree that unnecessary costs are incurred under current operating conditions.

#### Preparing for the Challenges of the Future

The operational problems along the southwestern border are real and have persisted for many years. It was with these problems in

mind that, in cooperation with the National Academy of Public Administration (NAPA), we convened a panel of current and former public officials familiar and experienced with customs and immigration activities. The purpose of the panel was to explore whether the problems were worth fixing and, if so, what solution would be best.

The panel members did not believe the current dual management structure between INS and Customs was adequate to handle the customs and immigrations service demands that will likely confront the government in the next 10 to 30 years. And, they believed that management benefits could be gained by vesting responsibility with one agency. These benefits would include (1) an improved capability to think strategically about related immigration and customs issues and (2) clearer accountability for border operations by having one spokesperson within the government for issues surrounding the movement of people, goods, and services into the United States.

#### Organizational Options

Over the past 20 years, numerous study groups have recommended specific actions to correct common findings of fragmented border control programs and interagency rivalries, conflicts, and jurisdictional disputes (see attachment). However, no broad scale reorganization has ever been approved by Congress generally

because of opposition from agencies and departments that would lose jurisdiction, from congressional committees that would be similarly affected, and from agency personnel and private sector organizations whose interests would be adversely affected. Throughout our review, we met with current and former Customs and INS officials, Congressional staff, OMB staff, union representatives, and affected interest groups to get their views on operational problems at the land border ports and how to improve operations. Through this process, we identified three options for improving operations,

- Improve coordination within the existing framework of joint staffing of the primary lanes at ports of entry.
- Establish one agency as the lead for primary inspections.
- Create a border management agency by merging the INS border patrol and inspection functions with the Customs Service.

The NAPA panel considered each of these options. The panel rejected the first option because of longstanding evidence that coordination between the agencies has not been effective. The panelists noted that past commissioners had found efforts to improve coordination required a disproportionate amount of time and effort and detracted from the ability to deal with other challenges.

The second option--vesting responsibility for primary lane inspections with one agency--has been recommended by a number of prior study groups, including us. It also has been supported by Customs, INS, and some special interest groups. However, the panel noted that this option also had its weaknesses. The panelists felt that because both Customs and INS wanted to have the primary lane responsibility, strong opposition would come from the agency that would be consigned to doing secondary inspections.

The panelists also rejected the third option--creating a border management agency--because it did not give adequate consideration to the relationships among the various functions that support INS' missions. The panelists were concerned about the prospect of breaking up INS, both complicating efforts to develop a coherent policy for addressing world migration pressures and potentially demoralizing that agency. They also noted that this proposal had been made before without leading to any action.

Having rejected the three options, the panelists reached consensus for establishing an independent immigration and customs agency. The creation of such an agency was seen as affording an opportunity to develop a more strategic and integrated vision within the government for addressing the problems of facilitating the entry and assimilation of people, services, and goods into the country in compliance with applicable immigration and customs

laws. The panelists saw an integrated organization as being a prerequisite for doing the mission planning necessary to get the most benefit from evolving information systems technology, which they saw as leading inevitably to consolidated inspection functions. Ultimately, the decision to establish an immigration and customs agency as either a component of the departments of the Treasury or Justice or as an independent agency would depend on whether consensus can be reached among policymakers within the executive branch and Congress.

- - - - -

Mr. Chairman, in closing I would emphasize that the current coordination of border inspection functions is not effective. It is clear that the dual management structure for border inspections is not viable and should end. We recommended that the Director of OMB, working with the Secretary of the Treasury and the Attorney General, develop and present to Congress a proposal for ending the dual management of border inspections. We are pleased that efforts are underway within the Executive Branch to consider this issue and that this Subcommittee is holding hearings to focus attention on it.

That concludes my statement Mr. Chairman. I would be glad to respond to the Subcommittee's questions.



ATTACHMENT

ATTACHMENT

Table 1: Overview of Past Studies Recommending Unified Management Structure for Ports of Entry

Year	Study proponent and synopsis	Recommended placement of lead inspection unit		
		Justice	Treasury	Not specified
1973	Executive Office - President Nixon's Reorganization Plan #2 proposed to consolidate port-of-entry inspections by transferring personnel, jurisdiction, and authority from INS to Customs.		X	
1973	General Accounting Office - GAO recommended single-agency management of port-of-entry inspections and supported the enactment of President Nixon's Reorganization Plan #2.		X	
1974	Office of Management and Budget - OMB advocated a single-agency management strategy for the U.S.-Mexico border, with Customs having management responsibility for primary inspections, port security, and administration.		X	
1977	Office of Drug Abuse Policy - The office recommended creating a multi-purpose border management agency by consolidating INS and Customs into a new agency. This proposal was later incorporated into President Carter's 1977 Reorganization Project.			X
1983	President's Private Sector Survey on Cost Control - The Grace Commission recommended placing all responsibility for primary inspection functions currently performed at ports of entry into a single agency.			X
1988	Congress - Senate Bill 2205 and House Bill 4230 proposed establishing an Office of Border Management Affairs which would have consolidated Customs and the Coast Guard within the Treasury Department. Senate Bill 2230 would have consolidated Customs, the Coast Guard, and INS, also within the Treasury Department.		X	
1988	General Accounting Office - GAO reiterated its position on border control management consistent with the findings of the Grace Commission; that is, all responsibility for primary inspection functions currently performed at ports of entry should be placed into one agency.			X

Source: GAO and Congressional Research Service data.

Mr. CONDIT. Thank you, Mr. Gadsby. Mr. Dino do you have an opening statement you would like to make?

Mr. DINO. No, I do not, Mr. Chairman.

Mr. CONDIT. Mr. Gadsby, GAO had a limited period of time and covered a limited geographical area in preparing this report. How valid are your findings for the entire scope of the INS/Customs dual border management effort? The GAO completed the research for its report last January. Have you noticed any major improvements? I guess those are two questions kind of rolled into one.

Mr. GADSBY. Yes. Well, I would say that it is clear we did have a short period of time, and one of the reasons we did it quickly is that much work had been done on this issue before. There are a lot of studies available which we took a look at as part of our work. As a practical matter, we did look just at the border ports of entry and our findings do apply to these locations.

However, the panel we convened was very familiar with the other studies that had been done and many panel members had worked on these issues before, both within Customs and INS. So, their points of view were not constrained by scope of the specific work that we did. They had a broader perspective on this issue in recommending the end of the dual management structure and the creation of a separate agency. So, I think our recommendation can be applied broadly. But, one has to consider that INS and Customs are responsible for much more than what goes on at just the border. Any kind of restructuring would have to consider those other activities.

Mr. CONDIT. So, you took into consideration the past reports and all of the supporting information, in terms of your report.

Mr. GADSBY. That is correct. As I mentioned, we didn't spend a lot of time refocusing on the problem. We tried to spend our time on just getting people's views on potential solutions.

Mr. CONDIT. Since the completion of the report in January, have you been able to notice any improvement in management coordination? Has there been a reduction in the traffic tieups at the port of entry?

Mr. GADSBY. We have not done any followup work in terms of actually going out and seeing if there has been any reductions at this point in time. There certainly has been quite a bit going on in both Customs and INS with respect to considering how they might improve coordination. I think, in the statements of the other witnesses, they mentioned some of the efforts that are underway. So, there are a lot of good intentions, and good things are being done. As to what the impact of that is, I do not know. I think perhaps the only way to really know would be to check at some point in time in the future.

Mr. CONDIT. As you have already said, there have been a number of reports and research done on the so-called pervasive rivalry between INS and Customs. I guess for the last 6 years there have been a number of reports documenting that. Is there any hope that this time there will be, in your opinion, any efforts to correct this situation? Do you think we are on the right track now?

Mr. GADSBY. Well, now as well as in the past, the road to improved coordination has been paved with good intentions. But, as I mentioned in my statement, what people told us during our field

work was that, in the end, past Commissioners have found that it just took a lot of effort to work out these coordination problems, particularly in the face of competing demands.

On the other hand, though, I think a lot is different now than in the past—including the climate that has been provided by the Reinventing Government effort of the Vice President, the fact that there are new management teams at each of these agencies, and the fact that we have seen a very positive response to the work that we have done at Customs and INS that involves broad management issues.

We completed general management studies of the Customs Service and INS in the past 3 years. The response of those agencies to that work has been very positive, and they are now involved in dealing with the recommendations that were in those reports. These conditions, coupled with the fact that NAFTA will produce more work on the border, the fact that the National Performance Review people have suggested that coordination is the route to go—holding consolidation as a consequence for not succeeding in coordination—all provide an environment more conducive to having coordination work this time.

Mr. CONDIT. In your written testimony, you stated that a single agency held great benefit for improvement of management there. So, I take it that you believe that there are other ways of achieving those benefits without having just the single agency?

Mr. GADSBY. I think that it can be done by cooperation, if the parties do cooperate and work together to improve operations. The point I made was that this has really not been what past history has shown.

Mr. CONDIT. That is right. How much more time shall we give them before we decide that they are not going to do that?

Mr. GADSBY. I think we should stick with what the NPR has suggested.

Mr. CONDIT. I have a number of questions I am going to ask both of you in a few minutes. Out of consideration for Mr. Horn's schedule, I am going to allow him as much time as he needs to ask questions. If he has additional questions for the other panelists, he will leave those with us and we will be delighted to ask those as well.

Mr. HORN. I appreciate that, Mr. Chairman. As usual, both sides can submit questions to get all of the material clarified.

I really only have just a couple of questions. One is you have had a chance to look at both agencies in depth over the years.

Mr. GADSBY. That is correct.

Mr. HORN. Each agency in government, in industry, in education, over time develops what we call a corporate culture.

Mr. GADSBY. That is correct.

Mr. HORN. How would you describe the differences in corporate culture between Customs and the Immigration and Naturalization Service? How would you describe the commonalities in culture between those two services?

Mr. GADSBY. I will start with some of the commonalities that we found. That might be the easiest way. I think both of the agencies are what I would call operationally focused, as opposed to strategically focused. That is they tend to react and respond to problems when they see them and try to work them out. Also, what we found



during our general management reviews is that they need more coordination in the culture of the two agencies.

I think historically, the agencies have faced some of those problems both between agencies and within their own agencies. For example, Customs was very functionally organized and there was really not a lot of coordination between different parts of it. Similar situations also existed in INS. I know that they have been working and continue to work on changing those organizations to better integrate the different units—within both agencies, in order to focus more cohesively on accomplishing their missions, both at the border and in other places. So, I think those are two kind of cultural aspects of those organizations that we saw that were very similar.

Mr. HORN. How about the dissimilarities? What do you sense there?

Mr. GADSBY. I really do not have a very good feel for that, as far as cultural dissimilarities.

Mr. HORN. It is not impossible to merge agencies with different corporate cultures. It is merely something you have to anticipate, think with, figure out how to integrate, and bring people together.

Mr. GADSBY. That is correct.

Mr. HORN. One is focused on really traditional law enforcement, if you will. There is a law you are not to violate—illegal acts are committed when you cross a border without proper permission, and it is more of a police-type function, but a complicated one, given language, and culture differences of the clientele with whom you are dealing. The other, of course, has a major revenue collection aspect, like a tax collector would, and there are different types of skills needed in that work force. I wonder how much you get out of the thought of moving personnel around to perform the other agency's functions, given that history of what you have done to educate your own people to effectively perform a particular mission.

Mr. GADSBY. Well, there would be some retraining associated with that. I would think that a lot of the same people would continue to provide the services on the line, with a different let's say management culture or management framework.

You mentioned the different missions of the two agencies. That can play itself out at the border almost like the border port being a company, and the INS and Customs Directors being separate CEOs with different objectives and different agendas for accomplishing the companies' objectives. They may be very good at accomplishing its own objective but, as far as accomplishing the overall mission of having the operations at the border move smoothly, unless they are really working together or basically under the direction of one individual, that may not happen.

Mr. HORN. Well, as you know, there has been at least a decade or maybe a two-decade-old argument that within Immigration there ought to be a separation of service functions—

Mr. GADSBY. That is correct.

Mr. HORN [continuing]. As opposed to enforcement functions, the feeling being that many people who leave countries where there is an authoritarian, dictatorial government have great fear of authority, and they need certain services. If they think they are also connected with the direct police function, there is a tendency to stay away from it. Would you see three basic components in this inde-

pendent agency, where service is one, enforcement is another, and collection of Customs is still another?

Mr. GADSBY. That would certainly be an option.

Mr. HORN. Well, let me move to independent agencies in general. Two come to mind that are rather successful independent agencies—NASA, the National Aeronautics and Space Administration and NSF, the National Science Foundation. One of the sort of theories of public administration is that, if you are either a President of the United States, president of a corporation, president of a university, you have got fundamental line and staff functions. You are trying to get a direct line of responsibility to the chief executive and whatever governing authority there is.

Now, here, if you set up an independent agency, conceivably, people can say, well, they all report to the President. You and I know the President does not have time for the Cabinet, let alone dozens and hundreds of independent agencies. In reality, NASA, NSF, might see the President, if they are lucky, once a year. They will also see the Budget Director maybe once a year in a budget appeal process. Where is the regular overall direction coming from this agency? Does it need it? Do we have other models in the Federal Government? The Tennessee Valley Authority, in essence, might be one, which drove the old bureaucratic agencies nuts in Washington, but was successful. Now, are you thinking of something like that as a model?

Mr. GADSBY. In terms of the independent agency—and when the panel talked about this they did mention NASA as you did and focused on it quite a bit. Their concern in actually presenting this and discussing it was that, even today, within the Departments of Treasury and Justice, Customs and INS are somewhat buried within those massive Departments.

The feeling was that, in any kind of a consolidation, there was always going to be a winner and a loser, and that, if one was to move in the direction of an independent agency, there might be an organizational arrangement around which there would not be a loser and that the two agencies might actually be enthusiastic about moving in the direction of more independence.

As far as how much access that agency would have to the President, I think that depends on how much importance the administration put on border issues and immigration issues. In fact, in our report, we highlighted that the way we need to go depends on how much significance and importance both the Congress and the administration placed on dealing with this issue. We recognized that, if you are going to take some action to reorganize, it is going to require a lot of attention. If you are not really going to invest the time and the energy it is probably not worth pursuing.

Mr. HORN. Yes. Well, I am very open to the idea. I think you might be right. We have tried a lot of other things. One of the problems that comes up, however, with the notion of an independent agency, is the relationship with other existing Cabinet Departments, where they need help, whether it is with the Department of State, in terms of the obvious visa refugee problem; the Department of Labor, in terms of how many people should actually come in the country, given particular labor market needs, or other Departments. The question is, when dealing with an independent



agency and Cabinet officers that are political appointees, will it have the President's ear. Is that putting it at a disadvantage?

Mr. GADSBY. I think it would depend a lot upon who the President put in charge of such an independent agency. I think that the relationship the individual has with the President, perhaps more than a specific position and seat they sit in, means more, as far as access.

Mr. HORN. Well, thank you.

Mr. CONDIT. I would just follow up with a question. Since we are talking about the independent agency, your prepared testimony contained a table showing seven past studies recommended unifying the structure. Not one of these studies recommended the Justice Department as the lead agency. Four recommended Treasury; three did not pick a lead agency. Do you have an opinion about that?

Mr. GADSBY. As to why?

Mr. CONDIT. Yes. Why? Should there be a designated lead agency, other than Justice?

Mr. GADSBY. From the discussions that we had with different people and in the things that we read, the sense was that historically, Customs has fared better in securing the resources, both in people and dollars necessary to carry out the work at the land border ports.

Mr. CONDIT. The agencies and witnesses who testify today are in favor of improving coordination between INS and Customs, rather than creating a new agency at this point. If this is the path we choose, can you give us maybe three or four suggestions on how we improve coordination?

Mr. GADSBY. Well, I think there are several things as far as improving operations. Some of them are strategic, some of them tend to be operational. In the strategic area, I think that we ought to continue to assess what the risks are at the border ports and to establish goals for how we want to operate there in the face of those risks, and then develop a strategy for achieving those goals.

In the statement of one of the witnesses, it mentions that we inspect 424 million people. That is a lot of people to inspect at the border.

Mr. CONDIT. It sure is.

Mr. GADSBY. We also always talk about the large number of drugs that are found as a result of those operations. But, there are a lot of other things we could take a look at too, in terms of assessing what the risk is with all of these people coming through in vehicles and on foot. I would be interested to know how many of the 424 million actually get referred to secondary inspections. And, of those that get referred to secondary, how many have some problem where we take some action. We never hear much about that. In terms of assessing the risk, with all of those people and with resources so tight, should we continue to inspect every person? Customs, because of all of the cargo that they have to inspect, has moved to a selectivity concept, where they do risk assessment. We have taken a look at that as part of our management study. Customs is in the process of basically reviewing their selectivity system and improving it.

I wonder if there isn't a way to apply some of those same selectivity concepts and inspect some people but not all people. There might be a way to handle the risk and to manage it satisfactorily at the border. I think we really need to, in the face of constrained resources, take a look at what our different options are on that.

In terms of operations, I think improving training is something—the cross-training of individuals that has been mentioned here this morning is something that is operational in nature. I think it would be beneficial. Also, providing sufficient staff to get the job done. Mr. Horn, I think you mentioned in your opening remarks about the problems with the 50/50 staffing situation or agreement and so forth.

There is under consideration a position of chief coordinator that basically would be sort of a facilitator individual, but not a person with much authority and control over things. It might be worth he or she having that individual have a pool of people that they could have control over. So, when that person sees the problems—such as backups, he would be able to move people into inspection points much more quickly and so forth, and respond to those changing situations.

Mr. CONDIT. Well, just in talking about risk assessment, after being down on the border, as the cars are moving through, if someone looks a little strange, or a little nervous, or what have you, you make a decision in about 10 seconds to keep traffic flowing? How would you do it different than that?

Mr. GADSBY. Well, you might do it randomly, for example. The notion is that an inspector's intuition, is very important in doing this. I am not arguing with that. All I am saying is that, we could also try doing totally random inspections and see what they yield in the way of the incidence of problems and so forth.

Mr. CONDIT. I consider what they are doing random. Is that wrong?

Mr. GADSBY. Well, I meant random, from a statistical standpoint I would say.

Mr. CONDIT. Ms. Woolsey.

Ms. WOOLSEY. Thank you, Mr. Chairman. I would like to come back to something that is important to me. Are you talking about creating an independent agency that will be over the other two? I want to make sure you are talking about adding a layer or taking parts of each to become a new independent agency.

Mr. GADSBY. The concept of an independent agency, as laid out by the people who were a part of the panel, was not an overlay on the existing organizations, it was merging them and just—

Ms. WOOLSEY. Coming up with—

Mr. GADSBY [continuing]. Making them a different structure.

Ms. WOOLSEY [continuing]. An independent agency. OK.

What kind of impact is this going to have on the employees? What is going to happen?

Mr. GADSBY. Well, first of all—

Ms. WOOLSEY. Have you even looked at that?

Mr. GADSBY [continuing]. I would like to reemphasize that we did not recommend that as a specific action. That was what our independent panel came up with. We presented that along with the other options that we had in the report. We did not go into the de-

tails of how that would take place. As I mentioned at the outset, we—and the chairman mentioned, we did this under a very short time constraint. Our goal was really to present to the requester of this work, Senator Bentsen, then chairman of the Finance Committee—what we considered options for potentially improving operations at the border.

Ms. WOOLSEY. OK. Then there was no consideration for minimizing worker dislocation?

Mr. GADSBY. We did not get into that level of detail.

Ms. WOOLSEY. OK. You do not have any recommendations in that area?

Mr. GADSBY. No, I do not.

Ms. WOOLSEY. Do you feel confident then that you have taken into account the opinions of those who work in the trenches day in and day out, as well as the workers in the agencies, or not?

Mr. GADSBY. Well, that is something—if the executive branch chose to move in the direction of creating an independent agency, that they would definitely want to do. Again, we did not get into that detail, in laying this out as an option. It is something that would obviously have to be considered if it was to be pursued.

Ms. WOOLSEY. Well, all right. On another subject. I am a human resources professional. I know you have to take into account what happens to the employees, otherwise, no matter what solution is chosen, it will not work. It will be unsuccessful because you will not have had their input, and therefore, they will not buy into it.

Mr. GADSBY. I might add, I think you need to do that under any of these alternatives that we present and not just the one related to creating an independent agency.

Ms. WOOLSEY. That is true. If we do follow the recommendation of the panel convened by GAO to end dual border management, do you think it would be in the best interests to encompass all aspects of INS and Customs, or should we include more of one than the other?

Mr. GADSBY. Well, the panel members were focusing on all aspects of the two agencies, and we presented that as their recommendation.

Ms. WOOLSEY. OK. Good. Thank you, Mr. Chairman.

Mr. CONDIT. Mr. Horn, do you have any followup questions?

Mr. HORN. No, I do not.

Mr. CONDIT. Mr. Gadsby, would you mind—Mr. Dino, both of you, if we submitted some additional questions to you in writing?

Mr. GADSBY. I would be glad to answer those, Mr. Chairman.

Mr. CONDIT. We are very happy you are both here today. Thank you for your time. We wish you a happy holiday.

Mr. GADSBY. Thank you.

Mr. DINO. Thank you.

Mr. CONDIT. Our second panel, which we are delighted to have here, is Chris Sale, the Acting Deputy Commissioner, Immigration and Naturalization Service; and Sam Banks, Acting Deputy Commissioner, U.S. Customs Service. If you will remain standing, we would like to swear you in.

[Witnesses sworn.]

Mr. CONDIT. Let the record indicate they said I do.



## STATEMENT OF CHRIS SALE, ACTING DEPUTY COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE

Ms. SALE. Thank you, Mr. Chairman, and members of the committee. I appreciate the opportunity to appear with you today, along with the Customs Service to speak to the issues of coordination and cooperation between the two agencies. I feel very strongly that, under the leadership of our new Commissioner, Doris Meissner, and Customs Commissioner George Weiss, we can expect to see continued improvements. It is my opinion that we have worked hard to improve cooperation where it needs improvement. I would like an opportunity to describe that work that has been happening this spring and summer and fall and then also to speak briefly to the fact that there was, in our opinion, at least, extensive cooperation and collaboration in several arena that are not covered in the report that has been described.

I would like to begin though briefly by describing the INS mission a little bit. Some of you have already referred to it. In addition to land border inspections, we cover obviously a broad variety of agenda pertaining to the movement of people in and out of the United States. Those include granting benefits to aliens; naturalizing citizens; making determinations on refugee and asylum requests, some of which we do overseas, and some here; ensuring that employers hire only authorized workers—we work with the Department of Labor on those issues very closely, investigating, detaining, and deporting aliens; and maintaining immigration records for the Federal Government at large.

INS performs those functions in a manner that provides an integrated system for managing the flow of people in and out of the United States. INS is, in fact, an agency that performs a very diverse, yet symbiotic set of complex functions. All of our activities support and inform each other, both from an intelligence and management information standpoint and from an administrative support standpoint.

Last year, the then Acting Commissioner of Customs and the then Acting Commissioner of INS, that being myself, met and agreed to try to improve and set an agenda that would be a Commissioner-level agenda for our cooperation and collaboration, looking toward the future of both agencies. We did in fact together, jointly inspect over 400 million individuals at land border ports-of-entry last year, and over 55 million people at airports. We cooperate and collaborate on various law enforcement activities between ports of entry and in other areas.

When the June report was issued, Mike Lane, who was then the Acting Commissioner for Customs, and I had already set out an agenda for cooperation. Since that first meeting, we have conducted—and I am going to list a series of activities that, in and of themselves, are fundamental to setting an agenda and, as Ms. Woolsey replied, from the ground up. We have worked very hard to involve our career officers and our land border and port managers, because you do not just dictate leadership, you also encourage people to work an agenda from the bottom up.

We have conducted two problem solving meetings or “workouts” at the inspections area to address joint projects, which include establishing automated ports at selected northern border sites and

other activities that will enhance the inspections process from a technology standpoint and from a flow-management standpoint.

We have had two very exciting meetings between our Border Patrol chiefs and the chief agents in charge, which are the law enforcement component of the Customs southern border initiative, and have put together an agenda that is very broad to share assets, to share intelligence, and to share mission activities. I am seeing a degree of excitement among the officers that represent that community on the INS side, and I think it is reflected on the Customs side as well, that is very pervasive. Each of those sets of officers see that working together they can gain from their joint efforts in a way that they hadn't seen in the past on a corporate level.

The Border Patrol, as you know, along with Customs, is a major entity in the drug interdiction arena. Last year, the Border Patrol, which is designated between the ports of entry as the principal drug interdiction agency for the Government, while Customs does it at the ports of entry, apprehended over 1.2 million aliens attempting illegal entry into the United States and seized drugs valued over \$1.3 billion—functions that are absolutely imperative.

Mr. HORN. What was that number again on the drug seized?

Ms. SALE. \$1.3 billion is our estimate of the value of drugs seized by the Border Patrol. Customs seizes very large quantities of drugs at the ports. At a port-of-entry, when an INS inspector either finds a drug or anything, it is referred to Customs, because it is their primary mission. At ports we simply, occasionally, because of our shared responsibilities do, in fact, first discover something, but we do refer it to Customs and they then actually complete that particular piece of the business.

The drug interdiction mission between the ports of entry that the Border Patrol conducts is undertaken in cooperation with other law enforcement agencies, both at the State and local level, as well as the Federal level.

In one of our two conferences this year in which we met with Customs, we also involved the DEA because we needed not just to recognize these two agencies' participation, but that the Drug Enforcement Administration also has a large role to play and is also similarly engaged.

We also work under operational alliance, which attempts to integrate the totality of Federal entities that are engaged in the drug war along the southern border.

Finally, we have got numerous initiatives on automation. I am always curious to hear the litany of reports dating back to 1930 that speak to our joint problems. 1990 and 1930 are not just 60 years apart. If you consider technology, if you consider the complex dynamics of the movement of people in the world as we know it today, it is really more like 500 years apart. Even 1970, when other major studies of this nature were performed, from a technological standpoint, we are more than 20 years away from the reality of 1970. These two agencies have cooperated and collaborated on building electronic lookout systems that are used principally at airports but that we are also installing across all of the land border ports that are unparalleled. We share those with other law enforcement agencies. Customs has taken the lead on a lot of that work. We are in the process of assisting the State Department participate



in that process more extensively as well, because the movement of people is not just a Customs/INS issue, it is also very vitally an issue for the counselor affairs officers at State. We meet with them regularly to make sure that our activities are integrated and coordinated in that context as well.

The witness from GAO accurately referred to the work of the Vice President's National Performance Review. That staff obviously had access to the GAO report and worked on the basis of that report to review both from their perspective, INS and Customs interaction. After long and elaborate discussions, the recommendations at the Vice President's level were that we be given an opportunity to make the best of what was already a strong and ongoing cooperation and collaboration agenda. We hope to be able to continue that and are doing so in coordination with the Office of Management and Budget, which is very vitally involved.

There have been numerous proposals written and very senior level meetings held at both the Department of Justice and Treasury level, in addition to senior people of OMB, to move that agenda on a coordinated basis, and to agree to a series of steps that include performance measurement at the local level, in an electronic framework, so that we can actually have a way of knowing whether anecdotal evidence about personality disputes, which is frequently what we are facing I think affect and in what way they affect—whether our ability to coordinate and collaborate are really serving the public. Because the bottom line needs to be whether or not people are being able to enter and leave timely, efficiently, and effectively—whether the service to the traveling public is effective, and whether the enforcement of the law is effective, in terms of precluding people and goods that should not come in from coming in. That is not ever going to be accurately characterized until we can have some fair and timely way to measure those activities.

I feel very strongly that we are on the threshold of a new and exciting era and that the cooperative spirit emerging between Customs and INS will serve as a model for future interagency cooperation on a very broad basis. These are very complex and dynamic issues. Mr. Chairman, Mr. Horn, and others have already spoken to a very substantive and challenging agenda. NAFTA, what is happening on a world-wide basis, in terms of refugees and other migration of people in the world are very vital concerns with regard to national security, from a terrorism standpoint are the issues we need to be addressing and focusing on.

I think it is imperative that we work together in enforcing our independent, but vitally interrelated missions and that we not spend costly and disruptive investments of time in reorganizing, which might occur, frankly, at the expense of the mission agenda that face both of these two agencies. Sometimes simple answers to complex solutions are not the right answers. We would like an opportunity to work on the complex solutions to complex problems.

Thank you, Mr. Chairman.

[The prepared statement of Ms. Sale follows:]

TESTIMONY OF

CHRIS SALE

ACTING DEPUTY COMMISSIONER

IMMIGRATION AND NATURALIZATION SERVICE

BEFORE THE

HOUSE GOVERNMENT OPERATIONS COMMITTEE

SUBCOMMITTEE ON INFORMATION,

JUSTICE, TRANSPORTATION AND AGRICULTURE

ON

BORDER MANAGEMENT

FRIDAY, DECEMBER 10, 1993  
LOS ANGELES, CALIFORNIA

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you today to discuss the issue of border management. This hearing is taking place at an exciting time. Relations between the Immigration and Naturalization Service (INS) and the U.S. Customs Service (Customs) have improved significantly in the last year. Under the leadership of our new Commissioner, Doris Meissner, and Customs Commissioner George Weiss, we can expect to see continued improvements through better management and coordinated leadership.

Let me begin by highlighting the INS mission, of which border management is an important component. In addition to controlling the border and inspecting applicants for admission at ports-of-entry (POEs), INS is responsible for granting benefits to aliens; naturalizing citizens; making determinations on refugee and asylum requests; ensuring that employers hire only authorized workers; investigating, detaining and deporting aliens; and maintaining immigration records. INS conducts these functions to provide an integrated system for managing the flow of people in and out of the United States. INS and Customs inspected over 424 million individuals at land border ports-of-entry, and over 55 million at airports. We coordinate and collaborate with agencies which either share the concern of moving people (such as Department of State and the law enforcement community) or share physical sites with us as they perform their mandated missions (Customs and Agriculture.)

INS functions are diverse, yet symbiotic, involving the complex management of people.

#### Commitment to Cooperation

The June 1993 GAO report on Customs and INS raised several concerns relating to problems of coordination which arise on occasion at certain land border ports-of-entry. In the spring of this year, the Acting Commissioners of INS and Customs met and made a commitment to pursue a coordinated approach, not only at the ports-of-entry, but also wherever our capacities can complement each other. The atmosphere of cooperation and conciliation between the two agencies has increased tremendously since then. We have jointly developed a training package on changes in immigration law for Customs employees. Port directors and inspections staff have met on a variety of issues. We continue to pursue a long-standing agenda to share systems development initiatives. In April and September of this year, chief law enforcement agents on the Southern border for Customs, INS and the Drug Enforcement Administration (DEA) conducted two border issues conferences and developed an agenda for asset sharing and cooperation unprecedented in the history of these agencies.

Additionally, a broad representation of both INS and Customs recently conducted two problem-solving meetings, or "workouts", one to address the joint INS/Customs project to establish automated



permit ports at selected northern border sites and the other to address one of the major areas of concern in the GAO report, updated cross-training. These "workouts" were highly successful, and are envisioned as part of the ongoing cooperative effort between INS and Customs to foster better relations and more effective coordination in our joint responsibilities.

### Narcotics Interdiction

Border Patrol, a major component of INS, and Customs each play a significant role in the interdiction of illegal drugs transported across our international borders. Last year (FY 93), Border Patrol apprehended 1,253,795 illegal aliens and seized drugs valued at nearly \$1.35 billion between the ports-of-entry. INS inspectors also discover and seize narcotics as a result of their border inspections. The value of these seizures was \$132 million in FY 93.

The drug interdiction mission between the ports-of-entry of the Border Patrol is accomplished through a variety of operational activities, the utilization of force-multiplying technologies, and, most importantly, coordination and cooperation with other law enforcement agencies. Our first two border issues conferences conducted in April (Nogales, AZ) and September (El Paso, TX) among the Border Patrol, Customs and DEA epitomize the true sense of interagency cooperation. These conferences were designed to foster

a cooperative spirit between the agencies and develop an integrated enforcement strategy. We anticipate conducting future border issues conferences on a regular basis to facilitate a continuing dialogue among Border Patrol, Customs and DEA.

The conferences far exceeded our expectations and resulted in new initiatives designed to promote increased awareness of each agency's enforcement strategy and to utilize shared resources and innovative technology. In essence, these initiatives will enhance drug interdiction efforts along the Southwest Border, and significantly impact the cost and operational efficiency and effectiveness of future interdiction efforts.

In order to gain a better understanding of each agency's enforcement position, the agencies are providing technical assistance and briefings on the enforcement aspects of their respective laws and the legal authorities under which they operate. INS has initiated briefings for Customs, outlining INS policies and procedures such as paroles, silent waivers, and stays of deportation, which will assist the Customs in conducting investigations. In addition, the Border Patrol and Customs have agreed to coordinate and cooperate closely in the use of controlled deliveries and follow-on investigations. This includes the timely sharing of tactical intelligence and post-seizure analysis.

Cooperation in Communication and Technology

Other initiatives include the expansion of shared data bases and information management systems, and the sharing of capital and maintenance costs for high-technology and high cost equipment and communications systems. These initiatives encompass the utilization of the Treasury Enforcement Communications System (TECS) and the Post-Seizure Information Exchange (PIX) at INS District offices and Border Patrol stations and/or checkpoints. To date, TECS has been installed at 21 Border Patrol locations, and plans are underway to do the same with PIX, a real time pictorial information and intelligence system.

The INS and Customs have also agreed to study communications equipment sharing, including radio communications, and related equipment, resulting in significantly reduced costs and enhanced service. Both agencies have agreed to experiment with a shared communications system in Chicago and New Orleans, where the present communication system's capabilities are limited.

Communication and cooperation between our agencies will be enhanced with the presence of a permanent Border Patrol liaison officer at the Customs Command, Control Communication, and Intelligence Center (C3I West) in Riverside, California. This officer will assist in the detection of illegal entries by aliens along the southwest border, and coordinate tactical and strategic

operations. A crucial aviation safety link between the two agencies will also be achieved through this liaison effort.

The installation of formalized agreements between the Border Patrol and Customs for shared aviation support and equipment has dramatically improved interdiction efforts on the Southwest Border and in Puerto Rico. The two air branches are continuing to work closely in augmenting aviation resources through sharing assets and in developing interagency aviation cross-training.

#### Historical Cooperation between INS and Customs

Beyond these recent initiatives, it is important to give a broader perspective on interagency projects which have been successfully proceeding for several years. The INS and Customs cooperate very well at the airports, where INS handles all primary inspections of people, and Customs handles all primary inspections of cargo and performs selective secondary inspections. Furthermore, INS and Customs have been involved on an ongoing basis in a variety of joint projects to enhance inspections operations. These projects include: (1) the Interagency Border Inspection System (IBIS), an enforcement lookout database; (2) the Advance Passenger Information System (APIS), a cooperative effort with the airline industry to expedite the processing of passengers; (3) adoption of industry standards for automation for airline passengers; (4) Land Border 2000, a comprehensive, long-term plan



for land border inspections operations; (5) the Peace Arch Crossing Entry (PACE) which enables pre-screened, low-risk, frequent border crossers to cross the border through an abbreviated inspections process; and (6) discussion with Amtrak to mutually accommodate the inspection of proposed train operations between Vancouver and Seattle.

On the enforcement side, Operation Alliance, EPIC (the El Paso Intelligence Center) and JTF-6 (Joint Task Forces liaison between the Department of Defense and the Border Patrol) are examples of three major interagency coordinated efforts regarding border control.

#### National Performance Review

The National Performance Review (NPR) studied the issue of coordination between INS and Customs, and recommended that the two agencies be given an opportunity to prove that their commitment to close cooperation would work. Their recommendations were consistent with the agenda we were already pursuing: a structured and deliberate, top-down, agency cooperation and collaboration agenda.

Under the leadership of the Office of Management and Budget (OMB), interagency meetings with senior representatives from the Justice Department, Treasury Department, INS, and Customs have been

held to identify and analyze a range of options concerning dual border management, particularly interagency cooperation. INS and Customs have developed five areas of consensus that have the full support of both agencies and senior departmental officials. Several of these areas of consensus are the subject of cooperative ventures already underway between the two agencies.

The proposed actions include: developing measurable joint performance standards and indicators in cross-designated duties; increasing emphasis on joint basic and refresher training; establishing local quality improvement committees made up of managers of Federal agencies with a significant port presence to resolve problems at the local level; coordinating shift scheduling of primary inspectors; and improving coordination and joint planning of special enforcement operations. There is also a proposal to create the position of Chief Port Coordinator (CPC) to facilitate improvements at the operating level. The CPC would chair local quality improvement councils, all joint enforcement activities, and act as the initial and primary point of contact in matters relating to both agencies at the port. The CPC, however, would not exercise cross-agency line authority.

#### Operation Blockade

You have also asked us to address the special enforcement operation in El Paso. This was a highly visible, local deployment

of approximately four hundred (400) Border Patrol Agents over a twenty-mile area on the international border between El Paso, Texas, and Juarez, Chihuahua, Mexico. The objective of this operation was to effectively control the border with a strong law enforcement presence at the literal border, which would discourage the entry of undocumented aliens.

The local operation was successful in demonstrating that an enhanced law enforcement presence on the border can significantly reduce illegal traffic in a less confrontational manner and at the same time garner public support in a city with significant economic and personal cross-border ties. Moreover, while the operation decreased attempted illegal entries and apprehensions between the ports-of-entry, seizures of fraudulent documents and narcotics at the ports-of-entry increased significantly.

Although there was a reported reduction in business revenues in South El Paso, and people who were unable to cross illegally demonstrated in Mexico, both the local community and INS view the operation as an overall success. In fact, the El Paso Mayor's Office reported receiving a public opinion approval rate of 95-98 percent. As the continuing enhanced enforcement takes place, we are undertaking a long-term impact assessment to determine the effectiveness of expanding this new strategy to other locations along the southern border.

Conclusion

I believe that we are on the threshold of a new and exciting era and that the cooperative spirit of the emerging relationship between Customs, DEA, and the INS will serve as a model for future interagency cooperation, exemplifying law enforcement excellence and public service. We all agree that each agency plays a significant, yet unique role, in border control, and that our common goal will be achieved by working as a unified team.

...

I would be pleased to answer any questions you may have at this time.



Mr. CONDIT. Thank you. Mr. Horn, do you have time from Mr. Banks, or do you want to ask your questions now?

Mr. HORN. Unfortunately, I am going to have to leave. Let me just ask two brief questions.

Ms. SALE. Yes, sir.

Mr. HORN. No. 1, the House, as you know, approved \$60 million additional in appropriations for the Border Patrol.

Ms. SALE. That is correct.

Mr. HORN. Has that money been assigned now as to where those new Border Patrol officers will be? How many will be on the southwestern border?

Ms. SALE. In conference, Mr. Horn, the appropriation was for \$45 million, not for \$60, as amended after the Senate took action. We expect to be able to place up to 600 additional officers on the line. Some of that will be a function of moving officers from administrative management positions, and some of that we will be hiring. At this point, our plans are for 100 percent of that investment to be deployed on the southern border. It is our highest risk. It is where we feel we have the most serious need to further the complement of staff that are there today. It is where we will be dedicating those resources.

Mr. HORN. Yes. Do you mean Texas to California by that, or California?

Ms. SALE. That agenda is still being worked out. We are running some very elaborate and, in my mind, important models on the effectiveness measures, to try to make sure that that investment is made where our risk is highest, and where we see the deployment of those resources will pay the most benefit. It will probably be Texas and California, but not equal.

Mr. HORN. Well, what State might get the most?

Ms. SALE. Well, the highest volume of apprehensions in traffic is in California, sir.

Mr. HORN. OK. So, then logically we should get the bigger share?

Ms. SALE. Logically, that would be the case, yes. It has been the case in other years when the Border Patrol has had increases in staff.

Mr. HORN. Last question. What, if anything, in your judgment, can people who are in the National Guard or the active military or the Reserve Forces do to help the Border Patrol?

Ms. SALE. We already receive and are very grateful for a lot of support from the Guard and for some partial support from active military. The Guard—our principal concern, sir, is the Guard or any military entity's ability to actually act in the context of interdiction and arrest, because of all of the issues that you previously mentioned in terms of law enforcement training, police training, language training, cultural training. We are delighted to receive structural support from the Guard, in the sense of radials, in the sense of monitoring, in the sense of communications, all kinds of facilities support. Obviously, we would be able to receive more than we are receiving today if the Guard were able to provide it. We are already very well invested by the Guard.

Mr. HORN. What is your estimate of the number of people in the Border Patrol who are properly trained who are in office positions

that might be relieved by the Guard taking perhaps some of their office positions? Is that the role you see?

Ms. SALE. The role we see is broader than office positions. It is also monitoring radio frequencies, it is also technological support in the context of managing some of our sensor information. It is also support in the context of building systems for us, which we have had support from the military on in the past, helping us with the very high tech kinds of infrastructure development that we have been trying to design and put up. The Guard has put up the fences and helped us with lighting and fence building and clearing brush. I do not have a number to give you, but it would be easily in the hundreds.

Mr. HORN. In other words, could we get another 600 on the actual border, firing line, if you will?

Ms. SALE. I do not think we have 600 doing other work, sir. We are just not doing the work.

Mr. HORN. Yes.

Ms. SALE. Do you see what I mean?

Mr. HORN. Right.

Ms. SALE. So, that is a number I would not want to commit to.

Mr. HORN. If you waved a wand and said to effectively control our borders, which have not been controlled in decades, how many people does the Border Patrol need on the California border? I realize that once you plug that hole, they go elsewhere.

Ms. SALE. That is exactly right.

Mr. HORN. How many do you need on the southern border? Are there similar problems on the northern border? We now know Chinese boats come in the Atlantic and the Pacific if you would let them in. The Coast Guard has done a terrific job there.

Ms. SALE. They have. We are concerned about their continuing ability to support us as life moves on.

Mr. HORN. Sure.

Ms. SALE. Because we rely very heavily on them, as we do on Customs, for assets, air support, and water support that we do not have the resources to do.

Mr. HORN. What is the number of additional people that you need on the firing line?

Ms. SALE. I honestly do not have a number. One of the things that we have been doing and why we do not have yet in place a deployment for this year's numbers, although the first two classes are going to San Diego—that has been determined and we will continue to hire people while this work gets finished—is that we have traditionally counted apprehensions, numbers of arrests, as a measure of whether or not we are doing the job. That is not necessarily a good measure, because, as Mr. Condit was saying earlier, we have this revolving door—I catch you today, and so what do you do? You come back tomorrow. I may arrest you three times in 1 week before you succeed.

What we are doing is modeling behavior patterns and modeling what would occur if we were able to deter you sufficiently to actually make you stop trying. Some of this is very elaborate scientific, analytical work. We have got some support from the Department of Defense on this. We have been working with Princeton University in a variety of other research activities, in helping with the

statistical demographic work. We are looking at San Ysidro only. If you assume that we will catch somebody 10 times, and that, if we deter them 10 days, they will not want to come. That is the preliminary assumption—that we would need 3 to 400 additional people there than we have now on the patrol.

There are an awful lot of what-ifs involved in this kind of analysis. We really want to move to an effectiveness measure, as distinct from a widget measure that just says how many times you have caught people, but does not really say what is happening to the flow.

We have been talking to the Mexicans and to some research communities about assisting us in looking at what those measurement techniques would be. We are preparing within this package of money that we got this year, to put in additional sensors and other technological devices that would help us count the traffic. We are trying to do that sector by sector.

Mr. HORN. I see.

Ms. SALE. We have done San Diego. We now need to do, probably in that order, El Paso, because that is the next highest volume, and then move on down to the east coast. The number does not exist today.

Mr. HORN. OK. The next question is for the record from both agencies. I would like to know the Commissioner's 5-year data, file it for the record at this point, Mr. Chairman, if I might. I want to know what was the request of each Commissioner to the relevant Cabinet officer of the number of personnel by year, last 5 years, who are actually in contact with people on the borders. I do not want the service personnel in INS——

Ms. SALE. I understand.

Mr. HORN [continuing]. That are doing things in this country. I want to know how many people were asked for what I call the firing line, for want of a better term, or who were down there inspecting for Customs, dealing with actual border cases on the border for INS. Then I want to know what did the Secretary of the Treasury and the Attorney General ask the President, in other words, OMB for? I want to know what they settled on. What did the President recommend to the Congress? I want to know, by House, what did Congress approve of that original request. I just want to see where the problem is in terms of not facing up to the obvious.

[The information follows:]

February, 1994

Immigration and Naturalization Service  
Salaries and Expenses  
1990 - 1994 Spring Plan, OMB and Congressional Budget Submissions  
(Dollars in thousands)

	1990			1991			1992			1993			1994		
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount
<b>Inspections:</b>															
Spring Plan Budget Submission	1,426	1,780	89,126	1,298	1,587	87,332	1,373	1,579	93,831	1,522	1,761	112,007	1,294	1,575	108,416
OMB Budget Submission	1,428	1,780	93,444	1,151	1,513	84,044	1,339	1,561	92,602	1,521	1,759	114,948	1,292	1,536	110,916
Congressional Budget Submission	1,049	1,515	78,482	1,161	1,473	80,607	1,168	1,516	88,680	1,145	1,561	96,136	1,065	1,399	96,480
Conference Funding	1,057	1,523	78,330	1,033	1,449	77,676	1,150	1,498	88,122	930	1,346	84,904	899	1,318	86,344
<b>Border Patrol:</b>															
Spring Plan Budget Submission	5,487	5,206	314,091	5,487	5,049	334,301	5,427	4,949	339,954	5,343	4,771	384,653	5,277	4,913	431,576
OMB Budget Submission	5,529	4,709	286,844	4,935	4,522	276,484	5,048	4,757	385,152	5,316	4,900	390,925	5,277	4,813	427,764
Congressional Budget Submission	4,941	4,115	246,358	5,052	4,536	290,504	4,968	4,677	316,373	5,127	4,686	352,486	5,481	4,791	386,035
Conference Funding	4,652	4,561	262,847	4,968	4,552	292,504	4,946	4,635	319,373	4,663	4,571	361,659	5,564	4,663	397,430



Mr. BANKS. Mr. Congressman, if I can——

Mr. CONDIT. Mr. Banks, sure.

Mr. BANKS. One thing on the National Guard I would like to mention to you. I would like to echo what Chris Sale has said on the National Guard. They have been invaluable in our antinarcotics efforts. They are just absolutely tremendous. We have had as many as 644 assisting us in a lot of the work that we have done. We are real concerned that they appear to be taking some pretty sizable budget cuts, as they proceed into the future as well.

Mr. HORN. Surely. Yes.

Mr. CONDIT. Your questions and comments, we will get answers to them and include them in the record. Is that what you are requesting?

Mr. HORN. Yes. Just for the last 5 years, which should include fiscal 1994 data and if you have data on fiscal 1995. I will also throw that in there. Thank you.

Mr. CONDIT. I apologize for sort of deviating away from what we have been doing here. I would like to follow up. Mr. Horn has kind of initiated a couple of thoughts. There is a thought about INS officers or Border Patrol people who are not on the border, but inland——

Ms. SALE. Yes, sir.

Mr. CONDIT. Is this reorganization of people—is there thought of reassigning Border Patrol personnel in the interior, down to the borders or up to the border?

Ms. SALE. The reorganization that Commissioner Meissner is now contemplating—and she has not had it approved or announced it in any way—does not speak specifically to the deployment of Border Patrol officers. What we have been focusing on and some of what has occurred in El Paso, for example, which I know you want to talk about later, is that we have looked at the relative effectiveness of some of the officers in check points and in interior locations. We have been proposing and considering the appropriate deployment of those people in some instances. You recently held a hearing on the Forestry Service and those issues, and were I think very gracious in recognizing the value of the Border Patrol on sanctions activity, where we have no other presence from an immigration standpoint.

The Patrol is established and organized in such a way as to deal with tiers of enforcement activity. So, the preponderance of our people are right on the line; but recognizing that we do not catch everyone that tries to enter. Then there is a second and third flank, as it were, in the military strategy standpoint, and those are some of those interior activities. They do not obviously go way into the interior, but do tend to come in in those areas where we know that we have had some vulnerabilities.

Mr. CONDIT. Is there a written description of this quasi-military operation?

Ms. SALE. The strategy?

Mr. CONDIT. The strategy?

Ms. SALE. It dates back to probably a couple of decades. I will have to look, sir. If there is none, we will prepare something for you.

Mr. CONDIT. I am like 500 miles from the border where I live.



Ms. SALE. That is right.

Mr. CONDIT. We have a presence of Border Patrol. Obviously, it is an agricultural community; but, it would be interesting to know how much emphasis is placed there, versus different localities.

Ms. SALE. The numbers relatively are very small; but we will be happy to describe it and submit something for the record.

[The information follows:]

## BORDER PATROL MISSION

The United States Border Patrol is the uniformed enforcement branch of the Immigration and Naturalization Service. The primary mission of the Border Patrol is prevention and detection of illegal entry into the United States.

## STRATEGY

The Border Patrol performs its interdiction mission along both the northern and southern land borders, and, to a more limited degree, along the coastlines of the United States and Puerto Rico.

The Border Patrol uses a number of specialized operational techniques in order to detect and prevent the smuggling and unlawful entry of aliens, narcotics, and other contraband into the United States.

Each of the Border Patrol's 21 Sectors has developed individual tactics to perform the organization's mission in their geographic area of responsibility.

Typically, along the southwest land border, Sectors assign the majority of Sector resources to prevention and detection operations along the immediate land border. Immediate border operations include linewatch, sensor response, remote camera surveillance, air operations, mobile patrols between the Ports of Entry, and boat patrols.

A smaller but significant portion of Sector resources are assigned to reinforce immediate border operations. Border Patrol highway traffic check and transportation check operations, as well as area control activities, anti-smuggling investigations, and crewman control operations strengthen and add depth to line operations by closing off the means of escape from the immediate border. Sectors reduce the number of illegal aliens employed in their area of operations through enforcement of IRCA's employer sanctions provisions.

Border Patrol Sectors maintain a number of technical programs to support its enforcement infrastructure. Sectors operate intelligence programs, vehicle seizures offices, special weapons and tactics units, canine operations, and prosecutions units.

Mr. CONDIT. OK. You also talked about—and we talked about recidivism or the continuing flow every night of these people coming across the borders. When Mr. McCandless—Congressman McCandless and myself were in Mexico, we met with the Ambassador and the President, and a variety of other officials of the Mexican Government. I believe this is correct—there used to be a policy that when we caught people we did not just drop them off on the other side of the border, but we actually sent them into the interior of Mexico or at least as close as we could from where they came. We were told that there is a possibility that this could occur again and it might be a major deterrent for people coming back because they have to spend so much money just to get to the border, if they come from deep in the interior of Mexico. What is your thought about that?

Ms. SALE. That policy has been used once or twice historically. The professionals in this business, the guys on the ground who actually remember and were here when it happened, all generally feel that it is a real tradeoff in terms of costs versus benefit. We have recently run a pilot in which we expended \$300,000 or \$400,000 out of San Diego, actually flying people into Mexico City. We are in the process of assessing that. Part of the difficulty here, of course is, absent biometric identification and absent catching a person, it is very hard to have certainty about the degree of recidivism. Even in this pilot, we have some knowledge now that the recidivism that we know within this group that we sent back over a 6-month period of time is fairly high and would indicate that the pilot was not a success, from the standards that we established at the beginning of the pilot.

We either buy airline tickets for these people and send them into Mexico City, or we need to have special arrangements with the Mexican Government for bus transportation or other Mexican-managed transportation. There are some risks inherent in that, in terms of how far the people will actually get.

Mr. CONDIT. Is the pilot completed?

Ms. SALE. We have finalized the pilot. We are in the evaluation mode now, and do not have a final report. We will be happy to refer it to you once we have it.

Mr. CONDIT. We would love to have that.

Ms. SALE. Absolutely.

Mr. CONDIT. We will get back to our regular proceedings here, Mr. Banks. We apologize for interrupting you. We will let you make your statement and then we will have some questions for you as well.

#### **STATEMENT OF SAM BANKS, ACTING DEPUTY COMMISSIONER, U.S. CUSTOMS SERVICE**

Mr. BANKS. Thank you, Mr. Chairman, Ms. Woolsey. It is a pleasure to be here, and it is especially an honor to be here side-by-side with my counterpart from the Immigration Service.

I would like to address the GAO report from two different levels really, a strategic level, and then to get down to their tactical, specific recommendations that they came up with. I guess the point that we would like to make is that we think that there is an unprecedented level of cooperation between the Immigration and Nat-

uralization Service and the Customs Service, and we think that we have made tremendous progress in a few areas. Maybe we need to have some heat put on us. Maybe we need to have a higher level of oversight to keep us in tune with this thing. We really believe that things are going in the right direction, and we believe that there is evidence in the information that I believe Chris provided you to some extent, and I would like to continue to echo that.

Our mission—I guess I would like to put it first in context—the report in context. Our missions are very big missions. Chris has talked about the INS' mission and the diversity and the scope of that. The Customs' mission is equally large. We are out there inspecting people, conveyances, and merchandise, in order to enforce all of the trade laws of the United States. With NAFTA, it seems like there is an unending stream of new laws and rules that are out there on trade issues that have to be enforced. We are also out there to prevent contraband. We represent over 40 different agencies. We are their agent at the border and to enforce their laws—everything from endangered species to safety of—flame retardants in children's sleep wear to counterfeit currency. The list just goes on and on and on of all of the things that we do. As a byproduct, we also collect about \$20 billion for the revenue of the United States.

When you look at the size of both of our missions and you take a look at what the GAO report addressed, it really addressed only one area of overlap between our two agencies, and that is at the port of entries. We do have officers cross-designated to act as that primary contact with the traveler. It is just at that point that we actually make a decision—those officers jointly make a decision whether they are going to be referred—whether they are going to go down the road, whether they are going to be referred into INS for further review or Customs for further review. That is really the point at which the GAO study focused. It is a very small part of our mission, and it is a small part of our resources. I do not want to minimize it because it is a very important issue. It is small.

One of the things that I think was kind of passed over quickly in the GAO report is the progress that we have made in other areas where we work side-by-side. We had the same problems at airports. We had coordination problems. Historically, over the years—and, as a matter of fact, if you go back to those reports, that is what you are going to see listed in those things. It is done. It is over. We have a level of cooperation and coordination between our operational systems that I think would satisfy a great deal of oversight and a real asset test.

We have built between us an interagency border inspection system in which we share our technology, we share our information. We built this thing up. It is not just Immigration and Customs, it is also the Intelligence agencies, it is the other law enforcement agencies that are out there. It is the Department of Defense. We have got all sorts of people involved in this process to share this thing.

We have gone further with technology to support our efforts. We have built an advanced passenger information system in which we have actually worked with Immigration, with the airlines and the airport authorities. We get information on international air pas-



sengers arriving into the United States sometimes before the flight ever departs the foreign country. A lot of this stemmed from Pan Am 103, when they could not find out who was on the flight. Today, at this airport, LAX, on 40 percent of the arriving passengers we get advanced information on who is on the flight, dates of birth, and other information which we can run all throughout our targeting systems. So, we can identify the people. We can do a better job of enforcement, and we can also facilitate the movement of the legitimate travelers easily. These are big steps forward in this process.

Chris mentioned the cooperation between the Border Patrol and Customs, especially in the high-technology area and the high-cost areas. We are using our aircraft every day in support of the INS mission. We are trying to take our aerostats that have been primarily an antidrug effort, and we are trying to use them as well to support the Immigration Service. We are looking at radio communications.

You mentioned costs and reducing overhead. The more we can share these things, the less cost it is to the overall Government, when there are some tangible cost savings that we have achieved between us. We are even looking at a major reorganization, a reinvention of our Customs Service under the National Performance Review. We have an INS person on our reorganization team to help us through this process. So, the coordination and the cooperation is real.

As I said earlier, I do not want to minimize the importance of the issue that has been raised and that has been focused by GAO. We really are trying to address that as well strategically. In fact, we are looking at trying to take this IBIS approach toward the land border operation. We are addressing those specific issues—those tactical issues that the GAO raised, such as increased training. We are aggressively trying to address those things.

The INS made available to us a self-study program on the Immigration Act. We are both developing cross-training programs today that we are going to take out to our field organizations this year. We are using computer-based training that we have got in our computer system and we are trying to make that available. We have also got what we call distance learning or satellite links with our district offices that we installed. We have already made a commitment to the Immigration Service that we can jointly use that in order to keep our officers current. We are really working together. These ideas did flow up from the ground level troops up as to what they thought was important in this process.

On performance assessments, there is no question we needed to have cross-designated responsibilities as a critical element in our performance plans. More than that, we are working on a weekly basis meeting in order to define what does that really mean. What are those performance standards that we want to require of our officers? What are those duties that we find equally important? Then we are trying to concretely measure those things. We are developing statistical systems, and tracking systems, in order to ensure that there are results.

Mr. Gadsby talked about we should know how many people come in. We should know how many people get referred more to the re-

sults. That is precisely what we are setting out to do. We are setting up a compliance measurement program on that random check basis, so we can determine what is the compliance gap, what is the risk out there at each of the ports of entry, in terms of where we should be focusing our resources. So, we are trying to aggressively work on that.

On the staffing issue, there is no question that we have had problems in the past. We have a somewhat larger number of resources on that border. I think it is primarily because of the drug problems in the 1980's that we were given the resources to address that narcotics problem.

On staffing, one of the things that we have is absolutely archaic facilities, and I think that has changed. Congress came through and gave us over \$350 million on a 5-year program to completely revamp the facilities along that border, and we are doing it, once again, in tandem, to make sure we deliver solid products.

In November 1992, we finally decided, as Congressman Horn said, that we could not sit there and just stay with the old 50/50 percent—there were so many people lined up—the traffic was backed up, there were so many pressures on our officers, they could not do as good a job as they wanted to do, so we said fine. We will just take whatever officers we have—when there is traffic backed up, we are going to put people on the line to relieve those pressures so that we do a better job and so that people do not have to sit beyond—we try for an average of 15 minutes, no more than that, on that wait.

There are trouble signs on the horizons with staffing, besides all of the budget things. NAFTA is going to take more work on Customs. It is a free trade agreement, but free means no duty, it reduces the tariff rates. It actually represents more work for Customs, because we have to make sure that people are not trying to use Mexico to circumvent that preferential trade agreement.

We have a new narcotics strategy that is going to possibly shift where the narcotics move in the United States. That could affect our operations on the southern border as well. You are right. The estimates say two-thirds of the cocaine comes across that Mexican border.

What I want to convey to you is we are working on this. We are working hard. Maybe merger is ultimately the right way to go. Right now I think we are both convinced that a merger at this point would only be disruptive to all of the things that we are making progress on. It would just stop us in our tracks, not only on the cooperative efforts that we have got going between us, but each independently, for our own larger missions. It would divert us from delivering the things that you want.

I think, in the spirit of the NPR, which we totally endorse, and with the oversight of this committee and others, we can deliver to you a cooperative system, not just for airports and seaports, but also on land border ports. I think our Commissioners and we are absolutely committed to deliver that.

Thank you.

[The prepared statement of Mr. Banks follows:]

TESTIMONY OF

SAMUEL H. BANKS

ACTING DEPUTY COMMISSIONER

UNITED STATES CUSTOMS SERVICE

BEFORE THE

HOUSE GOVERNMENT OPERATIONS COMMITTEE

SUBCOMMITTEE ON INFORMATION,

JUSTICE, TRANSPORTATION AND AGRICULTURE

ON

BORDER MANAGEMENT

FRIDAY, DECEMBER 10, 1993  
LOS ANGELES, CALIFORNIA

Mr. Chairman, it is a pleasure to be here today to discuss the relationship of the Customs Service and the Immigration and Naturalization Service at our nation's land borders.

During the past fiscal year (93), approximately 400 million people entered the United States via our land borders. Most of them entered without any or only minimal problems or delays which would indicate that our two agencies are doing their job without causing undue inconvenience to legitimate travelers. This hearing, however, has been called to look into problems identified by the General Accounting Office in its June, 1993, report entitled: Customs Service and INS Dual Management Structure for Border Inspections Should Be Ended.

The Immigration and Naturalization Service is responsible for determining the admissibility of persons seeking to enter the United States. Customs inspects persons, conveyances, and merchandise to ensure that no articles or contraband, including narcotics, enter the country in violation of our laws and to ensure that applicable duties and taxes are collected on importations.

At our land borders Customs and Immigration inspectors are cross-designated to perform the functions of both agencies during primary inspection, the initial contact with travelers. This is the area of overlapping responsibility within ports of entry identified in the GAO report. Cross-designation allows travelers to be screened by one officer to determine if there is a reason for either agency to require a more extensive examination of the traveler, his or her documents, or the vehicle. This screening process requires a working knowledge of the mission and applicable statutes and policies of both agencies.

The GAO report identified three major issues within the framework of overlapping functions: the lack of refresher training for cross-designated inspectors; the failure of the agencies to conduct assessments of the effectiveness of cross-designated performance; and the lack of a coordinated approach to staffing imbalances and traffic backups. We acknowledge that each of these areas has been a problem, and we have embarked on efforts to resolve each of them.

Customs and Immigration each provide extensive training for inspectors of the other agency during basic training at the Federal Law Enforcement Training Center in Georgia. Upon successful completion of the courses, the inspectors are cross-designated to carry out all primary inspection functions.

As pointed out in the GAO report, there have not been regularly scheduled, periodic refresher courses offered by either agency for cross-designated inspectors. We are in the process of correcting this. Beginning in January, the Services coordinated



a self-study course on the Immigration Act of 1990 (Public Law 101-649). Within the next year approximately 2000 of our border inspectors will have completed this course.

In addition, our agencies recently completed a "workout" in Houston that was convened specifically to look into the issues of updated cross training and performance assessment. At the workout, representatives from Headquarters and field offices determined the extent of the problems and provided recommendations for resolving them.

We have reviewed those recommendations and have agreed to implement them as quickly as we can. We believe they will improve the overall effectiveness of the inspection process.

The agencies will also develop within this fiscal year, for regular periodic delivery to cross-designated inspectors, refresher training on the expectations of each agency for a primary inspector. We expect to rely, to the extent possible, on automated, self-study methods that will have a minimal impact on the flow of traffic through the ports.

Courses will also be created to update land border personnel on changes in statute, regulation or national policies. The Headquarters and National Academy staffs will work together to ensure that these changes are disseminated quickly.

In a further effort to develop an understanding of the missions of each agency and to foster cooperation, the Academy staffs will identify training that can be taken by mixed classes of Customs and Immigration inspectors. There are several areas covered during Basic training that are virtually identical and some field training that might be effectively shared, such as physical training and basic law enforcement concepts.

In considering the issue of performance assessment, the workout group determined that there are varying degrees of threat in each area of the country, and there are a number of important activities performed by primary inspectors that do not result in a seizure, detention or arrest.

The workout group did recommend, and we have agreed to develop, a standard critical element for inclusion in the performance plans of all port personnel relating to cross-designated duties. Successful performance in this element will require an understanding of the primary duties as well as cooperation between our officers, supervisors, and managers.

We have agreed that an assessment of performance must incorporate a viable measure of the threat or risk at each location. The agencies have begun the process of conducting a Compliance Measurement Study to determine threat as part of the baseline measure of performance.

The third issue raised in the GAO report concerns the lack of a coordinated approach to staffing imbalances and traffic backups. Customs has approximately 1,600 inspectors on the Southern border while INS has an on-duty staff of approximately 678 full-time inspectors. In its report, however, GAO did not take into account the fact that nearly 25% of Customs resources are assigned to cargo processing.

In order to improve traffic flow through the busiest ports on the Southwest Border, beginning in November, 1992, Customs made a commitment to ensuring that as many primary lanes as possible are open during peak traffic hours. This program has reduced average waiting times to 15 minutes or less during periods of heaviest workload at major ports on the border.

Customs and Immigration have successfully worked together in a number of other areas in our increasing efforts to fight the influx of narcotics and illegal aliens. Some of these accomplishments include:

A joint Interagency Border Inspection System (IBIS) has been established that is one of the largest and most productive information partnerships in law enforcement or government;

An information partnership has been established (the Advanced Passenger Information System, [APIS]) between the two agencies and the major airlines for providing Customs and INS with computerized advance passenger manifests. APIS has resulted in huge benefits to the public, the carriers, and airport authorities in reduced costs and substantially reduced air passenger processing times;

IBIS and APIS, respectively, won the 1992 and 1993 Federal Leadership awards. They are as technologically advanced as any in government or industry and are the product of information partnerships between the two agencies, as well as other government agencies and industry;

Customs and INS/Border Patrol, are beginning to share high technology, high cost resources such as aircraft, aerostats, radar and sensor systems, C3I, and radio systems. As a result, these expensive systems will now be used against both narcotics trafficking and illegal immigration. Costs will be reduced and results multiplied;

INS is participating in Customs reorganization study which will incorporate the principles of the National Performance Review and result in a reengineering of the Customs Service. By including INS in the study, we hope to increase the benefits to our customers, developing additional joint initiatives such as those outlined above.

As you know, the General Accounting Office Report recommends

that the Director of OMB, working with the Secretary of the Treasury and the Attorney General, develop and present to Congress a proposal for ending the dual management of border inspections.

At Customs, we agree that there are opportunities for improvement in this area for improvement; our solution, however, would be to view the problem as an opportunity on our part to "reinvent government," and to improve our services to the public at the same time that we pursue budgetary savings.

To this end, Customs has been working closely with INS, OMB and our Departments to identify areas where increased cooperation might eliminate the problems outlined in the GAO report, and I am happy to report that our efforts in this area have already begun to produce a number of new efficiencies, to improve our relationship with other agencies and to enhance our service to the public.

On several occasions, we have attended high level meetings with the Border Patrol, and the results have been very positive. Commissioner Weise has met with Doris Meissner, the newly appointed Commissioner of the Immigration and Naturalization Service, and again, I believe that between Customs and INS there is as well a shared understanding that increased cooperation is critical to the future success of our missions.

This emphasis on interagency cooperation clearly reflects the goals outlined in the National Performance Review, and for this reason as well, I believe that the commitment of the various agencies with border enforcement responsibilities to further cooperation will be a reliable and productive one. Our agencies have also agreed to the following:

- Improving coordination of shift scheduling by INS and Customs to increase overall availability of primary inspectors;
- Improving coordination of special operations; and
- Establishing local quality improvement committees.

I wish to reemphasize that in only a small portion of our work is there overlap, and only within ports of entry at land borders. We each have sole responsibility for all of our respective secondary inspections, with Customs also processing more than 10 million formal commercial entries and collecting nearly \$22 billion last year.

Customs seized over 2,955 pounds of heroin and 175,317 pounds of cocaine during FY 93.

Customs enforces the requirements of such agencies as the Fish and Wildlife Service, the Environmental Protection Agency,

the Consumer Product Safety Commission, and the Food and Drug Administration, as well as the export regulations of the Departments of State and Commerce. The difficulties that now exist on our land borders also existed at one time at our airports: Customs and INS were very successful in initiating the kind of cooperation that eventually eliminated any problems with overlap or duplication in the airports. Interagency cooperation has worked in the past, and we are confident that the same efforts can eliminate the land border problems cited by the GAO report. Any major restructuring of the agencies, as proposed in the GAO report, should be subjected to serious scrutiny.

I will now attempt to answer any questions the members of the committee may have.



Mr. CONDIT. Thank you, Mr. Banks.

You both are very convincing that you are coordinating and working together, I will assure you of that. Every land port that I have visited where there have been Customs and INS people there, management types, they have convinced us of that. They have appeared, at least on the service, to be trying to work together. For the life of me, every time we leave and get another report, and do some indepth look at this, we get another view of it. I am confused by that. Do you have an explanation? Can you tell me why that is? Why can't you shake that image or shake that opinion that the GAO or whoever has when they come in and do the evaluation?

Mr. BANKS. I am not going to deny there are problems. I think, if you did a GAO audit on the level of cooperation—looked for cooperation instead of noncooperation, the report would be a lot thicker in terms of the amount of cooperation that goes on between our organizations.

There are issues. There are issues internally within Customs. Customs people are not happy with other Customs officers.

Mr. CONDIT. Sure.

Mr. BANKS. So, if you really want to find the lack of cooperation, I think you can find it. I am not going to minimize the problems on the coordination. We need to do a better job between us. I am not saying we are done. This still has to be fixed. It is not done. If you went out and did another study, you would find it today. I guess the only thing we can deliver to you is a commitment and say keep the heat on us and we will just keep reporting back. If we do not make it, if we do not hack it, then do what you need to do.

Mr. CONDIT. Well, that is absolutely fair. I hope that is the spirit in which you take it. We are prodding a little bit, because we hope that we are being helpful, not only to you, but to the mission of what it is that we are trying to do at the borders.

I wanted to follow up. We got started with Ms. Sales. I wanted to ask you, Senator Boxer successfully got earmarked \$2 million for training of the National Guard to assist at the border for Border Patrol. Have there been any plans, or are you beginning to map out how you will use these additional resources?

Ms. SALE. We meet on a fairly regular basis on a national level, and then locally with the Guard. Those \$2 million, to my knowledge, have not been specifically budgeted out in terms of a line-item kind of basis. We will be clearly putting an agenda together that will make that occur. I am not able today to tell you what the precise nature of that plan is. I know that the Chief of the Border Patrol was meeting with the Guard just last week on those broad interagency issues. I suspect it is being done.

Mr. CONDIT. Regarding Senator Boxer's proposal of using the National Guard and providing money, do you intend to incorporate in the administration's strategy, or is it something that you think is just out there and may not come to fruition?

Ms. SALE. It is clear to us that Senator Boxer is very sincere and intent on our efforts. We laud her and would encourage her because we need the Guard. We already, as I said earlier, use them extensively, and we use them—because of the nature of the Guard,

Mr. Chairman, and I am sure you are aware of this, there is both a national strategy, but then locally, each Governor, frankly, participates in the deployment of the Guard's resources.

Mr. CONDIT. Sure.

Ms. SALE. So, those decisions, to a great extent, get made at the State level, and we rely on each chief within each State to work those issues and then we consolidate them under the aegis of the operation alliance in El Paso, where these things get integrated at a national level. We are very happy to see that. Whether or not it all comes to substantially larger commitments than we have seen today, is something I think we have yet to see materialize.

Mr. CONDIT. OK. I know that you both have touched on this—probably some of the points that we are going to ask in questions, but, for us to have specific answers for the record, I would appreciate your tolerance, if you would.

Ms. SALE. Oh, absolutely.

Mr. CONDIT. You both have discussed extensive coordination efforts between the agencies. GAO completed its report nearly a year ago. Will you please describe—and you have made reference to it I think in your testimony—the meetings that have been taking place between your two agencies. What has been OMB's role in the meetings? Please describe specific recommendations of the Houston workout. Is there a written plan? If so, would you provide it to the committee, and to the subcommittee? What will each of these recommendations be? When will they be implemented? How will your success be measured and by whom?

Ms. SALE. You have asked about 10 questions simultaneously, Mr. Chairman.

Mr. CONDIT. I will go back through that, if you would like me to repeat them.

Ms. SALE. No, no. Thank you. Two efforts are happening simultaneously which, at some point, need to be integrated. Notwithstanding NPR, and then obviously coming out of that, OMB's participation, Customs, and INS had engaged in this joint agreement, from a headquarters, Deputy Commissioner-level standing, begun a get-well agenda. That get-well agenda resulted in a commitment to deliver a revised training program for our shared responsibilities in inspections. The first piece of that was an acknowledgement that in 1990 the Immigration and Nationality Act [INA] changed substantially. We have not provided to Customs the wherewithal to train their officers on some really fairly significant changes to the INA. Working together, the Director of training for INS in Glynco, GA, and the Director of training for Customs, met, set an agenda, tested a program, and we are now in the process of delivering for Customs, who, in turn, has committed to train 5,000 officers I think—

Mr. BANKS. Yes.

Ms. SALE [continuing]. In amendments that were made to the INA. That has also evolved into a strategy in which those two training Directors, on behalf of both agencies, are laying out a plan for revising each of our basic training programs to further include the immigration issues where it comes to a cross-designation, and to put together some basic models in which we will jointly train our officers. We are building a little baby land port in the training

academy. We will run exercises where the Customs officers and the Immigration officers actually work cases jointly during their training activity. That is happening without any help from OMB, with the National Performance Review agenda.

Similarly, we have a law enforcement agenda, which is represented by two meetings, one held in El Paso, and the other in Nogales, in which we came out with a series of 18 or 20 initiatives, most of them Sam referred to earlier. We are sharing radio frequencies where we have never done so before. We are consolidating our assets so that we can maximize the investment that each agency was making independently to get the most bang for the buck, and more importantly, so that our officers can speak to one another operationally in a secure and interrelated environment. We have agreed to share intelligence information.

Customs has been very forthcoming in sharing some of their aircraft, which we do not have anywhere near the number of airplanes and the very large assets that they enjoy from the drug war, so that we can actually coordinate. There was a report recently of a plane load of Chinese that were being landed somewhere on the Mexican frontier. Customs picked it up on one of their satellites, let us know and we were actually able to interdict the smuggling operation. That is an example of the kind of thing that is going on.

Workout sessions were held on the inspections side in two instances, one in Houston, as you have referred to, and the other one—I am trying to remember the places—in Washington. In the one instance, we focused on the performance measurement agenda and laid out a series of alternatives on how we will go after analytically and systematically, so that we have data, not just people's feelings and recollections about incidents, about what is happening at each of those ports. We plan to use management information coming out of the IBIS structure principally to tell us what is happening there. That has an action plan and an agenda.

The other one pertained to how can we conceptualize an automated port of entry on the northern border, where the risks are less pervasive. A draft report is to come out of that joint initiative—I do not have a schedule on the top of my head—to talk about what options we could use to build the technology port of the future.

Mr. BANKS. I think we are shooting for June.

Ms. SALE. Is it June? Thank you, Sam.

Mr. CONDIT. June is the deadline for the recommendations?

Mr. BANKS. That is right.

Ms. SALE. For the recommendations on a draft report on how we would do this. Based on what those specifications are, we will have to put together an implementation plan and a pilot plan.

Mr. CONDIT. Do you have to wait until June to know when the recommendations will be implemented? Do you have suggestions on when they are implemented?

Ms. SALE. I do not know.

Mr. BANKS. I think actually we were trying to shoot even to begin some of the experimentation in June.

Ms. SALE. Right.

Mr. BANKS. Understand this also requires cooperation on the Canadian side.



Ms. SALE. That is right. We are working with them as well. They seem very interested actually, so it is really exciting. These things would reduce our costs exponentially, Ms. Woolsey, if we are able to successfully both guarantee the national security concerns and the law enforcement concerns, but facilitate access in those places where we know that the risk is less intense.

While all of that has been happening by the professional career staff of the two agencies, the National Performance Review did its review and came up with a request for a plan. We have had three or four drafts of such a plan. It has five initiatives. I have got my crib sheet here. The measurement standards that we will jointly develop as performance measurement standards. Work is already happening on that because we had begun before that initiative came out—that we would develop quality councils at every port that are jointly staffed by Customs and INS, that we will agree and issue policy directives, that we will collaborate and jointly put together schedules for officers' assignments basically at each port, rather than INS deciding who is working what hours and Customs deciding who is working what hours—

Mr. BANKS. Joint schedules.

Ms. SALE [continuing]. We will jointly schedule officer time, again, to maximize our ability to serve the public and to maximize no surprises. We have also agreed that there will be no more special operations, where Customs decides one day that they are going to—and surprise is a big element in our law enforcement operations—come in and run a special operation. INS will not decide to run a special operation without having first coordinated and consulted. We will do everything in our power, in fact, to jointly run special operations in the future.

Mr. BANKS. There are several underway today—

Ms. SALE. That is right.

Mr. BANKS [continuing]. As we speak.

Ms. SALE. That is right.

We have been working on a revision to the MOU on land border responsibilities—this 50/50 that we talked about before, and defining then what the performance standards would be for those, not just on a service to the public basis, but on a personnel management basis—what do you as port director, what do you as inspector owe the parent agency, in terms of the cross-designated duties. We will be consulting with one another on how those individual personnel assessments are done so that our officers know that a very important part of their obligation is the Customs job and the reciprocal exists as well.

Mr. BANKS. I was just slipped a note that, as we speak, in San Ysidro, we have one of these joint operations that we are working—

Ms. SALE. Oh, really?

Mr. BANKS [continuing]. And there was an enforcement lookout hit on the primary lane by an Immigration inspector, and referred it to Customs. There were 3 pounds of heroin strapped to the back of a female on this particular one. So, it is tangible. I guess that is the point.

Ms. SALE. Do you want to add anything to that?



Mr. BANKS. You asked for the copies out of the workout sessions. I think we would be more than happy to provide those. All of the milestones are not laid out yet. That is the reason we have these weekly working groups effectively. Monday is the next meeting. What we are trying to do is really get more specificity to those plans.

You asked how do you judge this thing or measure this thing.  
[The information follows:]

***PROPOSALS FOR WORKOUTS BETWEEN THE  
U.S. CUSTOMS SERVICE  
AND THE  
U.S. IMMIGRATION AND NATURALIZATION SERVICE***

*Workout Charter Between the  
U.S. Customs Service and the  
U.S. Immigration and Naturalization Service  
July 1993*

**Background:**

- *The June 1993 Government Accounting Office (GAO) report Customs Service and INS: Dual Management Structure for Border Inspections Should be Ended concluded that dual management, interagency rivalry, coordination problems, outdated and unused interagency agreements and other issues have led to ineffective border management.*

**Agreement:**

- *It was agreed between the agencies on July 23, 1993, that a cooperative workout should be undertaken to reverse the course that resulted in the issues identified above. Other than INS travel, the workout will be funded by the Customs Service. Each agency will be represented by seven members from port director level to headquarters program managers. Both the northern border and the southern border will be represented. Assistant/associate commissioner or designees from both agencies will open and close the workout.*

**Assumptions:**

- *The problems identified are systemic, could happen to any two agencies under similar circumstances, and no fault will be identified or discussed regarding individuals or agencies.*
- *There will be no discussion of changing functions (one agency taking over primary, etc.) or any other type of reorganization proposals.*
- *Discussion will only focus on solutions the parties have control over.*
- *Because of the time consuming nature of workouts, two very focused issues should be addressed. However, if it is the consensus of the workout group that other issues are more compelling or important, these issues may supersede or be added to these. It is the expectation of both agencies that an underlying cause for all of the border issues, interagency rivalry fueled by poor communication, is too broad to be an appropriate topic to address in a workout atmosphere. However, this workout is viewed as an important step in the process and will improve the overall situation.*

**Workout Goals:**

- *Generate options, procedures, and timetables for development and delivery of updated cross-training for cross-designated inspectors.*
- *Generate options, procedures, and timetables for measuring and tracking the effectiveness of cross-designated inspectors.*

**Follow-up:**

- *Workout group will forward recommendations and proposals to the respective agency assistant/associate commissioners for their concurrence, modification, or rejection.*
- *Agencies' staff-to-staff meeting should identify the exact dates and methodology for following up on specific recommendations that have been approved as a result of this workout.*
- *Agencies' staff-to-staff meeting should be forum to identify the necessity of additional follow-up workouts or alternate types of interagency communication that may lead to improved relationships and effectiveness. First meeting of FY94 should include this agenda item.*



*Permit Port Workout Charter Between the  
U.S. Customs Service and the  
U.S. Immigration and Naturalization Service  
July 1993*

**Background:**

*- INS and Customs maintain service at numerous small ports along the northern border. Many of these ports do not generate the workload necessary for full time staffing. The evolution of usable security technology has motivated the agencies to seriously consider alternatives to staffing.*

**Agreement:**

*- It was agreed between the agencies on July 29, 1993 that a cooperative workout should be undertaken between the Inspection and Control division of Customs and the Inspections division and Border Patrol of Immigration. This workout will involve between 12-15 members of the three entities and will tentatively take place at Helena, Montana from September 13-17, 1993 with travel dates being the 13th and 17th.*

**Assumptions:**

- Both agencies agree that the overall concept of testing permit ports will be beneficial to both the agencies and the public.*
- There will be no discussion of changing functions or reorganization proposals.*
- Discussion will only focus on issues the parties have control over.*
- Issues such as application, approval, documentation will be developed in an MOU at the Headquarters level and will be discussed only if it directly relates to the workout goals.*

Workout Goals:

- *Develop priority list of permit port locations.*
- *Recommend specific type of control for each location when port is not staffed (CATV, voice recognition, ATM cards, hand geometry, etc.).*

Follow-up:

- *Workout group will forward recommendations and proposals to the respective agency assistant/associate commissioner for their concurrence, modification or rejection.*
- *Agencies' staff-to-staff meeting should identify headquarters (and/or field) working group to follow up on specific accepted recommendations.*

**DRAFT**

**INS/USCS GAO-RELATED WORKOUT  
HOUSTON, TEXAS**

From August 24 - 26, a team of port directors, district representatives, and Headquarters managers met in Houston to conduct a GAO Workout. The workout was convened to address the statements made in the June 1993 General Accounting Office (GAO) report entitled Customs Service and INS: Dual Management Structure for Border Inspections Should be Ended, concerning the need to update existing Memoranda of Understanding (MOUs) between Customs and INS. This process, similar to a Process Action Team (PAT), is a tool to resolve specific problem issues, and assures field input in areas closely affecting local port operations.

Customs provided an independent facilitator, who was exceptional in leading and focusing the group on the task. Larry Weinig (INS) and Chuck Winwood (Customs) presented opening remarks, and other attendees included:

Joe O'Gorman--HQUSCS  
Torney Comer--USCS/FLETC  
Roger Cutler--USCS/NOG  
Gurdit Dhillon--USCS/SND  
Tom Eberhardt--USCS/BLA  
Art Pitts--USCS/ELP  
Belia Gutierrez--USCS/HID

Donna Kay Barnes--HQINS  
Linda Loveless--HQINS  
Lenore Belzer--INS/PPB  
Art Gonzales--INS/ELP  
Dean Hove--INS/SPM  
Ramon Juarez--INS/LAR  
Al DeLeon--INS/HLG

The goals of the workout were ambitious. The first was to generate options, procedures, and timetables for development and delivery of updated cross-training for cross-designated inspectors. The second was to generate options, procedures, and timetables for measuring, evaluating and tracking the effectiveness of cross-designated inspectors. As the group became immersed in discussions and exercises to arrive at these goals, it became apparent that three days was not sufficient time to resolve such monumental issues. However, much was accomplished in identifying desired results and certain strategies for attaining them.

In the area of cross-training, a concept statement was developed to serve as a focus for the remainder of the workout and for future endeavors by both agencies to improve effectiveness and efficiency.

TO: Develop a unified program of continuing training and education for cross-designated inspectors...

IN A WAY THAT:

- Fosters interagency cooperation
- Enhances enforcement and facilitation
- Strengthens skills and increases knowledge
- Nurtures professionalism and self-confidence
- Provides a method of measurement of performance
- Establishes accountability at all levels
- Recognizes individual and team accomplishment

SO THAT: An environment is created where all inspections are performed in a manner that meets the mission, goals, and objectives of each agency.

The group determined that three types of cross-designation training is needed: National Refresher Training, National Update Training, and Local Refresher Training. National Refresher Training should include operational knowledge and procedures for both agencies. National Update Training should include legislative, regulatory, and national policy changes. Local Refresher Training would take the form of Standard Operating Procedure Manuals (SOPs) to keep all inspectors apprised of local procedures and initiatives. Strategies for delivery of the training include E-Mail, self-study courses, videos, computer based training (CBTs), newsletters, and others.

The discussions of measurements of cross-designation effectiveness were somewhat less productive and will require more time. There was general consensus that the Interagency Border Inspection System (IBIS) should be the measurement vehicle. During the time period allotted, the team was unable to agree on specific standards of a proper cross-agency referral, since operations and focus vary greatly from port to port.

The following recommendations resulted from the session:

- The group agreed that the most important part of any cooperative cross-training program is the commitment of higher management of both agencies to continuous, progressive, uniform, and consistent training. The field personnel present felt that a joint letter signed by both Commissioners to the field enjoining cooperation would help to assuage the frustration of many inspectors who perceive a lack of commitment on the part of higher management to cross-agency cooperation.
- The assistance of the respective Academies should be enlisted to develop continuing refresher and update training. First, the regions should be asked to help in compiling a list of training materials that currently exist (videos, CBT's, study aids, etc). A plan of instruction should be developed during the first quarter of FY 1994, preliminary materials and a pilot test completed during the



second and third quarters, and after obtaining feedback, regular training could begin near the beginning of FY 1995. This should then become ongoing, with revisions forwarded to the field on a regular basis.

- o Add professionalism and integrity training as an additional area, outside of the cross-designation arena, where the agencies could work together.
- o Develop local SOPs that include: enforcement, port procedures, officer safety, referrals, when to open trunks, and other areas of operation particular to that port.
- o Pass/fail standards at the academies are not equal and should be reviewed. Currently, Customs inspectors are required to pass the Immigration portion of the Academy training or their attendance is terminated. The Immigration Officer Academy has no such standard for immigration inspectors taking the Customs portion of the training.
- o Cross-designation performance should be included as a critical element in the Performance Work Plan of all inspectors, supervisors, and port managers.
- o Each agency must determine, as a matter of policy, what types of referrals should/must be counted in any evaluation system. Both agencies agreed that referrals should be tied to the evaluation, but were unable to agree on which types of referrals.
- o Amend IBIS to assist both agencies in capturing the results of secondary referrals.
- o Verify complete access of all INS managers and supervisors to all reports available through the IBIS system, and conduct training of these managers and supervisors in thorough use of IBIS and generation of all available types of reports.
- o Conduct a pilot test based on a team concept, set a standard for the port as a whole, count only port referrals, rather than individual, and compare the results to a similar period last year.

This workout is envisioned as just the first step in a continuing effort to promote better cooperation and coordination between INS and Customs at all levels. It was an excellent opportunity for supervisors and managers from both agencies to interact, air their concerns, and strive for resolution of mutual problems affecting our ability to effectively perform our missions.

Mr. Winwood:

During the "Hot Seat" follow-up to the Houston workout on cross-training and performance assessment the following recommendations were made to Mr. Cronin and Mr. Baish. Their decisions are included. Mr. Cronin noted at the beginning of the session that he was not authorized to make any commitment for the INS training academy.

A letter to all inspectional personnel will be prepared for signature by both commissioners stressing the need for cooperation and the importance of effective cross-training to achieving the respective missions of the two agencies.

#### AGREED BY BOTH AGENCIES

Each National Academy staff will develop refresher courses for cross-designated inspectors of the other agency. Development and delivery methods will be coordinated by the training staffs.

MAYBE FOR INS (must obtain approval from Academy)

#### AGREED BY CUSTOMS

Personnel from each headquarters office and one field manager who participated in the workout should meet in Glynco with the training staffs to assist in organizing this project.

AGREED BY BOTH AGENCIES (assuming there is approval for previous recommendation by INS)

The National Academy staffs are to develop a test for recertification associated with the refresher training. In conjunction with Headquarters staff and members of the Houston workout, appropriate incentives will be established related to the recertification test. This proposal will require input from the respective Offices of Human Resources and negotiation with AFGE and NTEU.

#### AGREED BY BOTH AGENCIES

Delivery methods for the training should be those that will minimize the impact on the ability of field offices to keep up with workload. Recommended by the workout group in order of preference:

- E-Mail
- Self-study courses
- Videos
- Computer Based Training
- Hands-on

Handouts  
 Interactive Video Discs  
 Job Aids  
 Written SOPs  
 Shadowing  
 Simulations  
 Training offices in the field

The workout group proposed the following timetable for completion of the project: (times to begin from the approval and notification of Academy staffs)

Identify existing cross-training materials	30 days from approval
Plan of Instruction (including evaluation strategy and cycle of instruction)	120 days later
Pilot test	120 days later
Feedback and Revisions	60 days later
Implementation of Mandatory Training and Recertification	30 days later
Evaluation	150 days later
Re-evaluation	Periodically

AGREED TO BY BOTH AGENCIES

Headquarters and Academy staffs will identify those changes to statute, regulation or policy that require immediate training of field personnel. Course development and method of delivering materials to the field will be coordinated by the agencies.

AGREED TO BY BOTH AGENCIES

Local training is to be developed on Standard Operating Procedures, special initiatives, and to address any specific problems identified through local assessments of primary processing. The training will include information on enforcement initiatives, procedures specific to that port, officer safety. As with the other recommended programs, the ports should ensure that all cross-designated inspectors and their managers receive the training.

MAYBE BY BOTH AGENCIES

The agencies should work together to develop consistent training on "professionalism" and "integrity:" not necessarily as part of cross training, but as areas of cooperation. (Headquarters staffs suggest that consideration be given to having this become an area of joint training, at Glynco and in Refresher courses. If either agency has field training scheduled on these subjects, the other agency's personnel should be invited to attend.)

MAYBE BY BOTH AGENCIES -- COORDINATION WITH THE SOURCES OF INSTRUCTION

The group recommends that the Immigration Service change its practice and, within appropriate OHR and LER parameters, make successful completion of the Customs course and test for cross-designation during Basic Training a condition of continued employment.

AGREED TO BY INS -- SUBJECT TO COURSE VALIDATION AND NEGOTIATION

A standard critical element pertaining to performance of cross-designated duties is to be developed and incorporated into the performance plan of all cross-designated inspectors and their supervisors and port managers.

AGREED TO BY BOTH AGENCIES

INS should develop and have programmed into IBIS a system analogous to the Customs automated CF-151 that will identify all participants in an enforcement action. There must be commitment by both agencies at the National and local levels to ensure that data is put into the system.

MAYBE BY INS -- WILL BE PRESENTED TO THE PROGRAMMING COMMITTEE -- CUSTOMS WILL ENDORSE

It was recommended that local and Headquarters managers of each agency be given appropriate access and instruction to be able to generate necessary reports from IBIS on all port activities pertaining to cross-designation to accomplish assessments of individual and port/agency performance. This recommendation is dependent upon approval and implementation of the previous recommendation.

MAYBE FOR BOTH AGENCIES -- SUBJECT TO APPROVAL BY IBIS STEERING COMMITTEE



The Headquarters staffs had additional recommendations that were not covered during the workout. They had, however, been discussed during the staff level work with OMB on the issue of land border management.

The agencies should conduct (possibly through an independent contractor) a joint Compliance Measurement Study. This will provide an assessment of threat at various border location and will be an integral component of an assessment of performance of cross-designated functions.

There should also be course areas during Basic training identified that are identical for inspectors of both agencies. Efforts should be made to present these courses to mixed classes of inspectors. Examples include Basic Law Enforcement training, physical training.

The possibility of establishing identical firearms qualification standards and courses of fire would allow for the sharing of critical resources in the field.

Mr. CONDIT. Yes. Who is going to measure success here?

Mr. BANKS. Well, we are laying out evaluation points as we proceed. I mentioned those compliance measurement plans. We also have been working on our performance assessment plans. There are going to be reports out of those in which you can actually see how—not so much each individual officers operating, as how the whole court operates as a unit, both Immigration and Customs together. So, I think those would be available to you. I think we are going to be able to come out under each one of these cooperative efforts and give you results out of that.

Then what really needs to happen in order to keep the focus on this issue is I think it would be great if you were able to go visit the port and talk to the people that are doing the job. I mean, if you really want to know how it is going, you have got to go down and touch it and feel it.

Mr. CONDIT. We will do that. We will take you up on that invite. It sounds to me like—and correct me if I am wrong—the things that you are talking about and suggesting in many ways is that you are combining agencies. I mean, you are talking about supervisors who apparently do work shifts for both Customs and INS. So what is the big problem about merging into one agency then, if you are going through the mechanics of doing that anyway?

Mr. BANKS. Because this issue is probably 5 percent of the Customs mission and resources.

Ms. SALE. Similarly, on the INS side. INS has 19,000 employees, 1,600 of them are inspectors. I mean, there is this whole other world that interfaces from an immigration management standpoint with our inspections function and on the Customs' side the same. The rest of that world does not overlap.

Mr. BANKS. Probably one-sixth of our inspectors are tied into this cross-designated issue—one-sixth of them. We have a whole commercial side that does not have anything whatsoever to do—

Mr. CONDIT. Would you concede that, at least on land entry ports, Customs and INS have pretty close—I mean, the responsibilities are intertwined pretty closely?

Mr. BANKS. Only at that primary location. When a primary officer refers an alien or refers a person to Immigration secondary, Customs has absolutely nothing to do with that. All of the questioning procedures, all of the admissibility issues, all of the adjudication procedures that fall out of that, absolutely nothing.

Mr. CONDIT. Why couldn't they have something to do with it? Why couldn't they be trained to do both?

Mr. BANKS. It is possible. I am not saying that we cannot be merged. I am just saying that today—

Mr. CONDIT. Oh, I am not advocating—I am just asking the question.

Mr. BANKS. OK.

Mr. CONDIT [continuing]. It seems to me that you could train them to do both—that that would not be a real difficult task. Maybe it is.

Mr. BANKS. These are really huge issues. These missions in training people to handle the other 40 agencies that we do for all of the merchandise processing, our training programs are extensive. One of the most difficult efforts we have is keeping our people

updated with current training on all of these changes about NAFTA. Maybe the Immigration inspectors need to know a piece of the NAFTA for tools or trade and things like that, where they interact with us; but 99 percent of that training has to go to the Customs people. It is not necessary. It is a huge effort just to undertake training our own people on this. That is the reason we have gone into that satellite training, in order to try to reduce the costs and simplify and keep it more current.

You can do it. The issue is you have two huge circles of agencies out there, and you have got one point that they interrelate.

Mr. CONDIT. Right.

Mr. BANKS. Do you want to bring all of those circles, or do you want to fix where we interrelate?

Mr. CONDIT. Well, believe it or not, I am totally objective. I do not know. We hope, at the end of all of this, that we make some recommendation that is valuable to someone someplace.

I wanted to ask Ms. Sale, the new Commissioner of the INS was on the panel convened by GAO a year ago, and the panel recommended the creation of an independent agency, combining the functions of INS and Customs. Has Ms. Meissner's views changed, since December? Are you familiar with that?

Ms. SALE. I am familiar with it. I believe she would characterize her participation on the panel and the views of the panel as much broader than just the land border issues. Probably, as an academic on a panel, looking at an issue, if we had asked her in depth and what she was referring to, she was also referring to refugee processing, visa issuance processing, Department of Labor responsibilities. I think her participation at least in the panel and its recommendation that the issue was bigger than land border, which is really where they were coming from, and the context of a broader agency, would have been even bigger than Customs and INS. Today, clearly, in the executive branch, with an enormous integration management agenda in front of her, she is very vitally of the opinion that the work that we are doing can be fixed and can be improved by our being grown up about how we do our work, to be perfectly honest, and professionals, and that the substantive agenda of immigration control, of enforcement and implementation of the NAFTA agreements, of managing the dynamics of the movement of people across the world should not be diverted by a bureaucratic battle over what the boxes are and who gets which jobs and how you redefine the agency. I know that she has been very much an advocate of the NPR recommendation, which was to let the agencies prove that they can do it because the professional staff can be counted on to make this thing happen, as they have in the airports and in other places.

Mr. CONDIT. Well, it is rumored that the NPR task force will be giving a recommendation to INS and Customs that says you have 2 years—

Ms. SALE. That is right.

Mr. CONDIT [continuing]. To get this thing implemented.

Ms. SALE. That is right.

Mr. CONDIT. Are you expecting this recommendation? Have you got this recommendation? Is 2 years long enough for you to do it?



Ms. SALE. We are expecting it, although we have not seen a final draft of that report. I think, in the 2 years, we are going to be able to show an enormous amount of progress, because I feel confident that we have done an awful lot of the ground work already.

Mr. CONDIT. One of GAO's criticisms of dual border management is the failure of INS and Customs to communicate with one another on a regular basis. For example, GAO describes in its report how INS and Customs each took remedial steps to fix border staffing problems, but completely neglected to inform the other agencies of its plans. How will you avoid omissions in the future? Should there be requirements of daily meetings? Maybe you have already done that. Would you care to elaborate on that part of the report?

Ms. SALE. The joint scheduling that we have already committed to implementing will in fact go a long ways to solve that problem. What the GAO I believe was referring to in their report there were a few instances in which special operations occurred without proper coordination and consultation. Then the reality that, because we are in two separate Cabinet-level agencies, when Congress acts on our appropriations, Congress does not always coordinate.

Mr. CONDIT. Touché.

Ms. SALE. When OMB acts on our appropriations, OMB does not always coordinate. At the local level I think, to the extent that it is within our authority, we are already handling that issue.

Mr. BANKS. If you reach out anecdotally, you could always find some instance of where maybe it did not mesh properly. I have got to say that we have got our two district directors from San Ysidro sitting side-by-side behind us, and there is a tremendous amount of cooperation.

Mr. CONDIT. They have not spoken to each other yet.

Mr. BANKS. They are listening for the first mistake that we make.

Ms. SALE. They are making sure we do not do anything wrong.

Mr. CONDIT. If I may, Assemblywoman Napolitano is here. Would you like to join us up front? I know that you are going to testify in a few minutes, but you are welcome to sit at the panel if you would like.

Ms. NAPOLITANO. I would like to.

Mr. CONDIT. She represents the 58th Assembly District. We are delighted to have her. She has been involved deeply with the State of California and the State legislature in this particular issue. She will testify in a few moments. You are welcome, anytime you would like to jump in for questions, you are welcome to do that as well.

Ms. NAPOLITANO. Thank you, sir, I appreciate it.

Mr. CONDIT. Mr. Gadsby told us a few minutes ago that INS and Customs were able to coordinate so well at the airports by designating INS as the lead agency. So, the question is should we—you are shaking your head already—should we designate INS or Customs or someone always as the lead agency?

Mr. BANKS. I would invite Mr. Gadsby down to the LAX to see how it really works.

Mr. CONDIT. Well, he is off. He is probably touring LAX right now for his next report.

Mr. BANKS. This is—

Mr. CONDIT. No. There he is back there.



Mr. BANKS. This is indeed part of the cooperation. We established a master plan for the 1990's, in terms of—we took a strategic approach to air passenger processing. Part of it was this advanced passenger information, but part of it was also sharing in melding our operations. What we did really is we have moved into—Mr. Gadsby mentioned selectivity, risk management approaches. What we have done is we base a lot now on our activities as to who we want to see, based on computerized information, and we do a lot of analytical work on this information to decide who we want to talk to and who we want to check. So, what we did was, rather than the Immigration Service, we had computers lined up at our primary locations. In front of us was the Immigration Service. They used to use lookout looks to check the people who were coming in. INS started on their computerization effort. So, you are going to have two series of computers checking them. We both got together and said this is foolish. This is expensive. This is costly.

So, we took our computers, and we merged our data bases to a great extent. By the way, we have also built in the Department of Justice, FBI systems, and the rest of it. We took those systems, and we moved them up to the Immigration lines and said you do the computer check. You query the computer. In fact, for the most part, a lot of it is done electronically through simply reading a passport. We also provided these passport readers. Then Customs does not have to do the computer check. We still do our primary inspection process. What the Immigration inspectors do for us—and they do a great job—is querying the system for their purposes and for our purposes. As far as our mission accomplishment, it is still separate. The Immigration Service does not do our—primarily because they do not ask the questions—

Ms. SALE. No.

Mr. BANKS [continuing]. In terms of the area, occurrence, plants, products, things like that. We still do that, it is just that that query can be done by one group instead of two groups. It is a lot more efficient. It saves a lot of money. We did not designate anybody as the lead. We just found a different way to work together very successfully.

Mr. CONDIT. That may be. I find it a bit surprising. I have a little bit of knowledge about law enforcement agencies who have maybe multiple jurisdictions and when they have a case or a project they have to work on, they always have to designate one lead agency for coordination. I am sure that the military is the same way when they use multiple divisions of the armed forces. It just seems to me that a lead person designated could give answers and resolve things much quicker.

Ms. SALE. I think you want to make a distinction between primary inspection in both our instances, as a preliminary screening device. This is not necessarily an investigation as such or a case management system. In each agency, we use primary inspection as the first gate that says how much more work do we want to do before we let you into the country?

In the Customs arena—and correct me, Sam, if I screw this up, because I do not mean to speak for you—because their principal objective is trade control and revenue generation.

Mr. BANKS. Contraband.

Ms. SALE. They are in a position to profile and to manage where they put their resources for the maximum bang. We do the same, as well. When you are dealing with people—and God forbid we should have anymore horrible circumstances such as we had in New York this year—when you are dealing with people, profiling simply does not work on a computer-generated basis, with the same probability of success. So, we take the position that says everybody—every person has to have a de minimis principal primary inspection. We cannot let some people not come through that first gate. Customs can because their mission is different—be selective about how they exercise that first gate, where we feel that it is imperative, from our law enforcement standpoint, that every single individual needs to pass that first gate. We then will spend, on a selective basis, predicated on that first gate, which is the primary inspection, and Customs is trained and cross-designated to do that first gate for us on the land border. Then we will independently—and Sam was right earlier, it really is not something they are trained to do or authorized to do or empowered to do—we will take people into secondary, where when we make a determination that it is appropriate, and it is not all people, but there are substantial numbers that we interview much more thoroughly and make decisions about their relative authority to enter the United States. Those decisions run the gamut from please come back next week with your mother and a piece of paper and we will hold your passport until you do, or whatever, to you are going to jail, to we are letting somebody know that you came in because they want to follow you to get on the next airplane, please, and go home, if you do not mind. I mean, there is a whole gamut of decisions that permeate from the immigration statutes that are used in that second layer of review that—it takes 16 weeks to train someone to do on a very preliminary basis.

We feel it takes 3 years before an inspector is fully trained at a journeyman level to exercise those authorities. It is not an easy or uncomplicated piece of business. That is the distinction I think. You need to look at primary as a first gate. Then, in secondary, they exercise those extraordinary statutes that are necessary to make determinations about their obligations, and we do ours.

Mr. BANKS. Mr. Chairman, we would be happy to invite you or Ms. Woolsey even out to the international arrivals area to look at it. There is no question, they need to know that person is the person they are speaking to. Actually that helps us in the process.

Ms. SALE. Absolutely.

Mr. BANKS. We have taken a lot of our work and we have just applied the technology and we are applying artificial intelligence in order to do the selection process as to who we should be interviewing and who we should be focusing our resources on. It is part of this risk-management approach that Mr. Gadsby mentioned earlier, yes.

Mr. CONDIT. I am going to turn it over to Ms. Woolsey, but I wanted to ask one question before I do. You seem to make a strong emphasis on sharing data base and information management systems. At a previous hearing on November 9, 1993, the subcommittee received testimony from a witness explaining the difficulty in coordinating the various law enforcement agencies. The witness'

daughter had been assaulted by a Mexican national. When the witness contacted the INS to check if the agency had a record and arrest warrant issued by the FBI, there was no record. Instead, INS approved the individual for residency and stated, if he is unable to come in and get his green card it would be mailed to his address in Mexico. Do you have any information about this? Can you explain this type of data sharing?

Mr. BANKS. I would explain this. If the person came in at the land border, the computer checks that we make at the land borders are on license plates, simply because, if we tried to do every name of every person that crossed that land border, the lines would be miles long. So we do the license plate check. For anybody that goes into secondary, we do a name check. When you do a name check, it goes against the National Crime Information Center, NCIC, and that shows any outstanding warrants, using our computer system, and it automatically refers every name over to this, and it shares the data base with the FBI. If that person—if all they did is go into either primary—and I am not sure what your policy is about doing name checks—if they go into Immigration secondary—if they go into Customs secondary, we check every name; but, if it just went through primary, all we would have done is a license plate computer check, which would never show that.

Ms. SALE. I am not familiar with the case you have described, so I would ask for an opportunity to know more so that we could give you a better response. Typically, you do not get a green card without a fingerprint check. That fingerprint check does run against the FBI records obviously, so we would have some knowledge. Now, the other reality of it is that when we are dealing with people, people do not always have the same names. People do not always say who they are. I do not know what the particulars of this case are, but it is the complexity of dealing with the entry and egress of people and the dynamics of human behavior—some of it is terrible, as one can possibly imagine—that is what makes us so committed to checking every individual that comes through and asking Customs, where they are designated to do so, to do so on our behalf. I, if I may, would like your staff to give me some more information—

Mr. CONDIT. Absolutely.

Ms. SALE [continuing]. So I can better answer your question.

Mr. CONDIT. Yes. It is a highly publicized case. We would be delighted to get you some information. We would like to have your input.

Ms. SALE. Sure.

Mr. CONDIT [continuing]. After we do a comprehensive report, we would like to make suggestions that are real, so we would like to get that to you.

Ms. Woolsey.

Ms. WOOLSEY. Well, just listening to you, it is so obvious to me that you really have a challenge ahead of you. Half of the Nation sees you as doing too much, and the other half sees you as doing nothing. Nobody sees that it is just right.

What I would recommend is that you make the public aware of your successful work together. You have to start getting us to see



the successes so that we do not only hear about the disappointments and mistakes.

I would now like to ask a question. It is certain that we are going to have expanded trade with Mexico. That will mean more goods coming across the border and increased opportunities for drug smuggling. What is your opinion about the GAO's recommendations it implemented?

Mr. BANKS. Some of the training—some of the mixed training classes that Chris talked about at our National Training Center, have to do with targeting, so that will help, especially with narcotics trafficking.

Ms. WOOLSEY. So, that is positive?

Mr. BANKS. That is positive.

Ms. WOOLSEY. You are working together?

Mr. BANKS. It is not in the GAO recommendations, but the series of initiatives that we talked about between Customs and the Border Patrol, all link to support that antinarcotics effort, especially between the ports of entry.

Ms. SALE. Our roles at the port of entry are really very clearly defined.

Mr. BANKS. Yes.

Ms. SALE. I think, at least certainly from the anecdotes that we have heard, where we know we have got personality issues—sometimes just incidents in which things do not go as well as we would prefer. It is absolutely clear that when it comes to who has the lead for law enforcement and drug interdiction purposes, it is Customs. INS inspectors routinely refer those kinds of findings to Customs for their completing the actions. I am not aware that that in particular is an area that we have got a not working problem with.

Mr. BANKS. As far as the issue of NAFTA and drugs, there is no question there probably is going to be a growth in trade from Mexico. Anytime you have got any kind of conveyance traveling, you provide increased opportunities, just because of the volumes. I would have to say even before NAFTA the traffic from Mexico was going off the charts. So, with or without it, we are facing this issue. NAFTA really does not make that much difference in terms of the narcotics issues per se.

Ms. WOOLSEY. OK. Thank you, Mr. Chairman.

Mr. CONDIT. Ms. Napolitano, do you have any questions you would like to ask this panel?

Ms. NAPOLITANO. Yes, certainly. Thank you very much for the opportunity. When you were talking about, Mr. Banks, when the entries—I am sorry—Ms. Sale. When you are going through the first gate and your officers, your people determine which people they are going to stop to request information from, how do they determine that?

Ms. SALE. There are a variety of issues. I think the most critical piece of this is just literally a sense—intuitive ability that evolves over time just by virtue of being there. We train them in behavior characteristics of nervousness—perspiration, awkwardness, an inability to look you in the eye. They are also looking at documents. At the land border, we will electronically, as Sam referred, key in the license plate number and that checks against the computer system to see if there is any reason to believe that this vehicle gives



us a risk situation. While the computer is doing that, the officer is at the window saying where are you going, what is your name—a series of questions. If you ever watch, they will also ask for people's documents, if they are not American citizens and have them. The officer will be talking to you and doing this sort of thing with the document. The officers are highly trained to recognize fraudulent documents. That recognition is not just visual, it is also tactile. They are able, with extraordinary—absolutely uncanny success factors to determine and find what is going on.

The port in San Ysidro is an excellent example. We have tapped into something called WIN there, which is the Western Information Network. It is a nine-State, computerized system for bad guys. We will, in secondary—and not everyone, but we will selectively make a determination about whether or not we really have reason to believe somebody is engaging in criminal activity of some sort. We will, if that is the case, and we do not do it all of the time because it is timely and it is costly, and it is intrusive, and you only do it if you have good reason to believe that—send that person's prints into the system with other identification and wait for a response.

Ms. NAPOLITANO. Within what length of time?

Ms. SALE. That takes several hours. So, we do not do it without due consideration. INS gets positive hits on those 70 to 80 percent of the time. It is exponentially better than any other law enforcement agency's positive hit rate against that system. I had the pleasure of being down there recently with a former Treasury employee actually, who is now a Department of Justice employee, and who had seen that data for the Selective Service and other agencies that I am not familiar with, and he came away just shaking his head about what happens day to day when you are dealing with human beings. Police officers will tell you the same thing. You just acquire a certain sense, and you cannot even define what it is that tells you; but it is not the physiological. I mean, it is not how you look, it is something about the way you are behaving—

Ms. NAPOLITANO. So, it would be anybody that they suspect.

Ms. SALE [continuing]. That gives us—oh, yes, blond, blue-eyed people to all other categories.

Ms. NAPOLITANO. Which dovetails into the question you are talking about—that it takes roughly 3 hours to be able to get some feedback on some suspects. Is there a possibility of improving your equipment so that it becomes a lot faster assessable to assist the officers in working with that and identifying them before they get across the border and get into the mainstream?

Ms. SALE. That is clearly our agenda. Some of the systems that Sam and I have been describing are systems that have evolved between the two agencies working together. We have had the most success in installing them and using them in airports. It is a lot easier in airports, because you are dealing with—

Ms. NAPOLITANO. There are less people.

Ms. SALE. Well, and a better configuration of facilities.

Mr. BANKS. We also have a user fee.

Ms. SALE. We have had more resources there because of the fee that the carriers collect on our behalf. To get the feedback on the automated finger-printing system is 30 minutes. So, it is not as long a wait as I said.

We are in the process of trying to bring that same set of systems and information to the land ports. Again, principally at secondary, because you have seen the traffic in southern California.

Ms. NAPOLITANO. Yes.

Ms. SALE. We cannot be asking every single person to go through that kind of process such as you do in airports. So, we have to rely on other mechanisms to get access.

Ms. NAPOLITANO. Ms. Sale, would you see then maybe in the future that whatever "green card" is made that you could utilize it much like a bank ATM card, so that there would be instantaneous recognition of that identified person?

Ms. SALE. Actually, the current green card, which is pink—if you have seen it, it is salmon—is machine readable. It has got the same kind of string of alpha-numeric data on it that the passports have, and you can run it through a reader. Now, there are instances in which those—even those very secure cards, because we use the highest technology available to develop them today, get fraudulently produced. The battle is always to have a secure document with reasonable cost and delivery, that cannot be fraudulently produced.

One of our big agenda this year is that, over the years, as the technology has improved, we have issued new versions of the green card. We are in the process of recalling the oldest versions, which data and studies have shown us are the most frequently, fraudulently produced and misused, and which does not have as many of the machine-readable technologies. If you have got a fake picture in there, the fact that you are holding that card, does not mean that you are the person that owns the card. So, in the long run, the idea—and technology and our budgets are not there yet—is to look for biometric identification.

We have got a big test going on in Newark and Kennedy right now using a hand print. That is awkward if you are in a land border in a car to ask everyone to stick their hand into a machine, you know, and this kind of thing. It is even the wrong hand, given the way the technology has been invented. So, we are working to look for thumb print, or some kind of a print identification. We are testing some of that now in the Border Patrol, where we are really dealing in an apprehension environment. The difficulty at the land border is that you are always having to reconcile facilitation—moving people through and customer service, and the concern about the lines and those issues with the law enforcement agenda. That is why we use secondary for that purpose.

Mr. BANKS. I would like to mention that one of the things we are looking at is with automatic license plate readers, so that the officers are not having to stand there to key the things in, and they can spend their time looking at—

Ms. SALE. That will move them faster.

Mr. BANKS. We have got imagery systems, where we can transmit people's images. In fact, we shared this with both the Border Patrol and with Immigration, so that you can actually have those images on storage to compare them against the individual in process.

Ms. NAPOLITANO. When we toured the borders—some of your personnel indicated to us that they did not have the capability of

being able to screen, because the detainees used different names each and every time.

Mr. BANKS. Yes.

Ms. SALE. That is right.

Ms. NAPOLITANO. They make three or four tries a day until they finally get through.

Mr. BANKS. We have got this at all of the airports. Once again, we have paid for some of this out of the user fees. We do not have on the land border ports to pay for this.

Ms. NAPOLITANO. My information has shown—or at least it has come to my committee's attention that 40 percent of the problem that we have is overstayed visas. How do we handle that?

Ms. SALE. About 40 percent of the problem of—

Ms. NAPOLITANO. Of illegal immigration.

Ms. SALE [continuing]. Of visa overstays?

Ms. NAPOLITANO. Yes.

Ms. SALE. I do not know that I can agree with that number, but I do not have one to give you instead off of the top of my head. I would like to be able to submit something for the record.

Ms. NAPOLITANO. I would very much like you to.

Ms. SALE. These overstays do not always mean people that have stayed permanently. We do have a high rate of people who stay longer than their visa—

Ms. NAPOLITANO. Stretch it.

Ms. SALE [continuing]. Authorizes, but many of them eventually actually do go home and do not permanently migrate—that is to say reside over an extended period of time.

Ms. NAPOLITANO. Do you not have a record of what those percentages are?

Ms. SALE. I do. I just do not know it off of the top of my head.

Ms. NAPOLITANO. You don't?

Ms. SALE. We will have to get it for you, if you do not mind.

Ms. NAPOLITANO. No. Definitely.

Ms. SALE. Thank you.

[The information follows:]



The statement that "40% of the illegal aliens here are the result of overstaying visas" is not correct, especially if it refers to those who have established residence in this country. The contribution of visa overstayers to the total resident illegal population probably falls between 50% and 60% depending on which set of figures is used. The numbers cited below are taken from the estimates of illegal aliens that the INS released last year.

1. Between October 1988 and October 1992, we estimated that net visa overstays totaled 722,000. Estimated EWIs (entered without inspection) for the 4-year period was set at 500,000 for all countries, with a very large majority from Mexico. Based on these figures, 59% [722,000/1,222,000] were visa overstayers.

Since the estimate of visa overstayers are based on somewhat better data than EWIs, it is possible that more EWIs entered than we allowed for. If we assume, for example, that there were 600,000, rather than 500,000, EWIs then the contribution of visa overstayers would be 55% [722,000/1,322,000].

2. Another way of estimating the contribution of visa overstayers to the total illegal population is to compute the percent of the illegal population that was not from Mexico, El Salvador, Guatemala, Nicaragua or Honduras. (Most EWIs come from Mexico and these Central American countries.) Our estimates for October 1988 indicate that 56% were from countries other than Mexico and the Central American countries; in 1992, the similar figure was 51%.

In conclusion, a phrase such as "roughly half (rather than 40%) of the illegal aliens here are the result of overstaying visas" would be more accurate and would reflect the uncertainty that inevitably accompanies such estimates.



Ms. NAPOLITANO. That is something that has been brought to our attention. We need to be sure that we have those specific records.

Ms. SALE. Absolutely.

Ms. NAPOLITANO. I also understand that you do no longer have record of emigres, people who leave the United States. According to your booklet that was shown to us—

Ms. SALE. The United States has not for a long time had exit controls.

Ms. NAPOLITANO. Correct.

Ms. SALE. We do ask people who come in on a temporary visa to—you know, when you travel out of the United States, file this little piece of paper. That works only on airlines and ships, and it does not really work on a land border with any consistency. So, if you fly in and walk out, it still does not count. It would take an enormous amount of effort and some substantial changes in the statute before we would be in a position to control who leaves the United States. Control means forcing every person leaving to file a piece of paper and for us to make a record of it. So, I cannot—you are right, we do not have that.

Mr. BANKS. We are experimenting on the airlines where we have this arrival inbound on this advanced passenger information electronically. Delta has experimented on outbound flights as well. So, but it is—you are right—it is by no means a comprehensive approach.

Ms. SALE. No.

Ms. NAPOLITANO. If you have people coming in with visas in cars, it is possible that you might be able to coordinate your numbers on both so that they could just also run them through as they exit? Because, if they are still on the record as having been in the United States, and they are long gone, the next time they apply, wouldn't you have way of telling whether or not those people have never left?

Ms. SALE. The visa is usually a stamp in their passport which is issued in their country, not by us.

Ms. NAPOLITANO. OK.

Ms. SALE. Not all of those passports are machine readable. We are working on an interagency—on an intergovernmental basis.

Ms. NAPOLITANO. That is what I am referring to.

Ms. SALE. There is an intergovernmental committee that is working on a diplomatic level, as well as at an industry level, building industry standards for machine-readable passports. You would appreciate, and I am sure Ms. Napolitano, in this world that we are in these last 3 years, where all of a sudden, there used to be one Russian passport, one passport issued by the Soviet Union—we are now having to keep track of, and understand, and read, and have a sense of what is real over dozens of new countries and new passports and new forms of management. So, that is an agenda that, at intergovernmental level, needs to be pursued. It is going to be a long time before it is resolved.

Ms. NAPOLITANO. Thank you. I just want to make one last comment, and that is that we have had the great pleasure of having Mr. Rogers' assistance in a program that we are hoping to put together to teach citizenship by cable.

Ms. SALE. So I understand.

Ms. NAPOLITANO. In fact, that is why I was late, I was at a meeting this morning. Hopefully, a lot of the problems that we have will be addressed through that process.

Ms. SALE. I cannot adequately express my thanks to you and to the local leaders here in California who are joining with us in the interest of naturalization. Mr. Condit, this is a California initiative with some local colleges and school districts and the like, to help us prepare people to become citizens. We are very grateful to you for your leadership in that regard, and to the local community support that we receive. We look forward to more of that. Thank you.

Ms. NAPOLITANO. We appreciate it, and we thank you for your support.

Ms. SALE. Absolutely.

Mr. CONDIT. Thank you, Ms. Napolitano.

Would you explain to me, Ms. Sale—we have got a couple of things we want to cover before we let you go——

Ms. SALE. Yes, sir.

Mr. CONDIT [continuing]. There has been a great deal of publicity about El Paso, the blockade. Can you, please, cover that for me? Could you describe how it came about?

Ms. SALE. The blockade, which is now called hold the line—the blockade was a short-term experiment proposed and designed and developed by the local chief in El Paso, who had recently been moved there from Brownsville, TX, in which he, having arrived in a community that was frankly in some distress, in both its relationships with the Border Patrol, and its relationships with the immigration issue—Chief Reyes, upon arriving in El Paso, made the rounds and spoke to community leaders, across the board, both in El Paso and in Juarez, the Mexican city that adjoins El Paso, about what their concerns were with regard to the Border Patrol, in particular, but immigration issues.

The result of this extensive consultation was a proposal from him that, with extraordinary funding he would, for a distinct period of time, because the funding would not be extraordinary for life, attempt to try a different approach to border control in this particular jurisdiction. Rather than rely on apprehending people once they have entered the border, he would post officers right at the line to deter their entry at all. Now, his apprehension numbers have gone down. This goes back to earlier in the hearing when we talked about how do we really measure success in the context of border management and border control. It is not necessarily how many arrests you make. It really ought to have something to do with the flow of illegal persons entering the United States. That has a relationship to how many arrests we make, but is not necessarily the only measure.

With a special transfer of funds from headquarters, what Chief Reyes did was put people on overtime. His men worked 6 days a week for an extended period of time, moved people—and not all of them, but some—from some of his interior sites where he does check-points and the like, and posted them within seeing distance of one another along the border and effectively deterred entry to an extent that is unheralded in that community. He worked with the mayor, with the local chief of police in both cities in doing this, and notified them so that they would know because, in any law enforce-

ment initiative of this nature, there is always the risk that something of a troublesome nature will occur. He wanted their cooperation and collaboration before he entered into it. He also worked with our inspection staff to make sure that—obviously at the point that you deter entry, people are going to be going to the port, and so we brought in extra resources at the port to make sure that we would be able to handle additional traffic.

The level of effort has now declined from where it was at its maximum because of resource constraints and, frankly, wear and tear on the officers. He is still attempting to hold the line, as he describes it, and has had extraordinary community support.

Now, there are some who really would rather there be freer access, not through the legal points of entry, but those people are in the minority, at least in the information we have regarding what the local interest is in El Paso. We saw a 500 percent increase in fraudulent documents at the port, and we saw people who did not know they could enter legally, and we have been able to grant them border crossing cards and offer other alternatives, to enable their access and entry. Where this was an enormous bru-ha-ha several weeks ago, I think things have settled down to a more normal operation. We are very grateful to Mr. Reyes for demonstration of an alternative to the procedures that we use for border management in that particular community.

Mr. CONDIT. Did you say how much it costs to do this?

Ms. SALE. We gave him \$300,000 for a month's time, and he effectively brought in an additional—it is a month's worth of about 400 people, but that was overtime. It was not really more people. It was overtime. It was 6-day schedules, rather than 5-day schedules for officers, and it was temporary duty of some of his checkpoint people and people who are working administrative functions onto the line.

Obviously, we cannot sustain that over time. One of the issues over how we use the additional funds that we got this year is making sure that, in laying out that deployment, we take the needs of El Paso into account.

Mr. CONDIT. Does it make sense to use blockades in other parts of the country, such as San Diego?

Ms. SALE. In exercising our law enforcement obligations, we take several things into account: The local population, the jurisdiction, in terms of its geographic circumstances, what we know about the motivation of the people who are coming and going, and the relative risk, in terms of the masses of people coming. If we were to compare San Ysidro, south of the San Diego area and Tijuana with El Paso, you would find two very distinct populations. Most of the people in El Paso who were entering illegally, lived and remained in El Paso, had relatives and an infrastructure in Juarez, excuse me, and were really day-trippers, if I can use that terminology. They really were coming in and going back every day and had a community of support and a familial relationship in Juarez and were not driven to enter. San Diego, on the other hand, the people in Tijuana usually have come from the interior somewhere and are running out of money and are desperate to get through and are not planning to stay in San Diego. They are on their way north. It is a very different population, in terms of both their motivation, what



is driving them, their level of desperation, and their diligence. In San Diego, whenever we have had visible special operations on the part of the Patrol, we have run very high risks, and we are very well aware of that and are very careful and conscientious about not doing anything extraordinary. That is why the strategy there has been lights, fence. We are talking about, over time, building a saturation strategy, to use deterrents in a different form.

I think, if we—the other difference is that in El Paso the geography is different. The space on the river and the levy create a broader range. If you were to drive along the border in El Paso and somebody threw a rock at you, they probably would not get all the way across to where you were. In Tijuana it is a very different set of circumstances. If they throw a rock, they are going to hit you between here and there and, consequently, the level of opportunity for violence and risk to our officers and to the population that they are trying to manage is much higher.

So, we are building templates, considering all of those alternatives, for each of the sectors that we manage. Consequently, the concept of the operation that we held in El Paso may well fit other border communities, but we do not think it fits the Tijuana, San Ysidro community, and are looking and working with the local chief here to build a different alternative for this particular set of circumstances.

Safety is a very big concern, not just for us, but also for the migrants. We need to be very conscious of that.

Mr. CONDIT. I want to just switch gears here a little bit and talk about some of the drug problems. I will just ask both of you a general question. What is the biggest impediment that you face the trafficking of drugs across the border?

Mr. BANKS. That is a real tough question in terms of the policies and the rest of it. Our biggest difficulty used to be—it used to go right over the top of us—it used to fly in. We put up—and an increase in violent crime and everything else in the United States, which we still seem to be having serious problems with. We have got almost an air fleet together. We have put up these aerostats, these balloons. Now what you see is you see them landing short. You see them landing in Mexico.

Ms. SALE. Driving across.

Mr. BANKS. Significant amounts driving across, putting it in commercial cargo, building tunnels because of the frustrations of being able to try to get it through the ports of entry, and bringing it across between the ports of entry.

I have to say that the level of cooperation we have had with the Mexican authorities in the recent years has been very good. They have been much better in trying to really take a concerted effort to address this problem. I guess I hate to say it, but resources is the biggest difficulty that I think both of us have on this issue. We have tried to address it through technology. We brought a lot of technology to bear. We have even got what used to be DART. It is now called HARPA, it is the Department of Defense advanced research project. They have set up tests for us, so we are testing even new advanced technology.

Mr. CONDIT. Is this part of the military?



Mr. BANKS. We use everything we can get our hands on. We have got fiberoptic scopes. We have got what we call busters, or density detectors. One of the best pieces of technology is a—fiberoptics, by the way, go in the gas tanks and the rest of it, to be able to see in those. There is a little brass hammer, and they get the feel of the tires and all of the rest of it. It is amazing.

Mr. CONDIT. We were in Brownsville when they opened a gas tank and found 60 pounds of marijuana. I do not know if you guys held that car until I got there.

Mr. BANKS. I doubt it.

Mr. CONDIT. It was there.

Mr. BANKS. The numbers are there. You can almost pick it out any day you want.

Mr. CONDIT. I commend you. The gas tank was full. It was amazing.

Mr. BANKS. We have built in automated targeting systems. About 95 percent of all of the commercial goods that come into the United States we have electronic information on. So, we have built in more and more sophisticated electronic targeting mechanisms, in order to identify which cargo to go look for and what not to go look for. We are dealing with x-ray technology. I do not know if there is a policy that has really got—if there is a policy out there that is causing us a problem as much as—this is just a—there is just so much money in it.

Ms. SALE. I think about a year ago the Border Patrol sent out a message they had apprehended some people that were simultaneously smuggling—walking between ports of entry smuggling in some people, and they also were carrying large volumes of dope. The message was—the good news is we detected them with our sensors and were able with our night vision equipment to get to them before they saw us coming and ran back. The bad news is that they had better equipment than we did. They really had better night scopes and all of the infrared equipment. Everything else we have got, they have got a newer version. They make a lot of money. They do.

Mr. BANKS. Nobody understands how much it takes. That is why we are trying to support—we have got black-out helicopters, which are very expensive.

Ms. SALE. That is why we are working together now. Yes.

Mr. BANKS. We got them from the military, and now we work hand-in-hand with the Border Patrol.

Mr. CONDIT. Is this a problem that, if we clamp down here which, in my opinion, we should do, it surfaces somewhere else?

Mr. BANKS. Sure.

Ms. SALE. I think that is inevitable.

Mr. CONDIT. It is never going to go away, unless we do something different.

Mr. BANKS. It takes a multiprong effort. It takes work in the source countries. The Pablo Escobar thing, the support from the other governments, I mean, that is very good. They are focusing in on the Cali Cartel, that is great. The Mexicans are beginning—

Mr. CONDIT. I agree it is the source countries; but it is also the demand in this country.

Mr. BANKS. Domestic treatment is absolutely critical. That is probably the only long-term solution. We are probably a temporary solution. I do not know how you—the police on the street tell us the more you can keep from coming in is the best thing that you can possibly do for us because of the violence and everything else that is tied into this. You have really got to attack this in a multipronged effort.

Mr. CONDIT. Multifaceted.

Mr. BANKS. Yes, sir.

Mr. CONDIT. If Border Patrol agents encounter, as you have suggested, smugglers, do they call the Customs agents?

Ms. SALE. No, because they are designated as the principal officer there. Now, they may, in a certain set of circumstances, where there are goods—if the smuggler is also carrying a load of oranges or—no, it would not be oranges, but something—they will call Customs. It depends on what it is they are dealing with and how close Customs is and what they are—but, certainly, for any goods that they interdict, they would turn them over to Customs to prosecute on that basis. For drug purposes, we are authorized to arrest and prosecute on that basis.

Mr. CONDIT. Mr. Banks, what is the role of operation alliance?

Mr. BANKS. Operation alliance is really to try to blend—provide a coordination point for all of the law enforcement agencies that are operating on the southwest border, to draw them together in a coordinated and complementary efforts, and to share data bases and to do everything together.

I am sure you could point out things where we have had gaps, where we did not have coordinated operations. Operational alliance has gone a long way to address that issue. We rotate the leadership of it in order to try and make sure that all of us participate, all of us feel like we belong. It has been a real boost to the coordinated law enforcement effort against narcotics.

Mr. CONDIT. According to a variety of experts, including OTA and CRS, as well as outside experts, illegal immigration from Mexico will increase during the first 5 to 10 years after NAFTA is implemented. The numbers of business visitors probably will increase as well. Is there a plan? What are you doing to prepare for the expected increase of both illegal immigration, as well as legal business visitors?

Ms. SALE. INS, at a corporate level, at an agency level, is engaged very heavily right now on a long-term strategic plan, which is overdue, by the way; but we are now up to our knees in it. We have worked with Customs in the context of the capital improvement program, to build ports-of-entry that would anticipate NAFTA and anticipate the traffic that we could extrapolate, that we could project into—beyond the year 2,000 actually. So, we expect that, from a capital facility standpoint, we are there.

INS has also been working very hard to develop staffing models to calculate who is coming, where they are coming from, so that we can best allocate resources among ports, in response to changes in traffic, because these patterns often shift. We are sharing that with Customs now and jointly looking at what our agenda and models are, so that not just local scheduling occurs in consultation, but

that our models for where we are going on the nationwide level are in sync with one another.

Finally, we have done some work with research organizations and professionals in the field to look at what we think the volume of legal traffic will be. We disagree with GAO's analyses, which proposes upwards of 10 percent growth. We feel very comfortable that in fact the trend that we have seen over the last 10 years of approximately 3 percent growth in legal requests for entrance will be sustained. We do not expect that that number is going to grow exponentially.

We need to remember that when we are looking at 500 million inspections, 5 percent is a large number, 3 percent is a large number. That is our estimate, and we stand by it. We feel very comfortable that we are not going to see an enormous change.

Chapter 16 of NAFTA, if you are aware of it, provides for a special transition period and establishes 5,500 as a quota for professionals to enter during the transition period, from no NAFTA to full NAFTA. That number was derived based on our best estimates of what the traffic bears today in terms of professionals and others coming in. That is in addition to the existing numbers of visas and entrances that are provided for specialty workers. We feel that that is a very viable number. So, it is not a huge growth relative to the number of people who are entering legally today.

Mr. CONDIT. Then you do not believe that the physical structures—the facilities of entry ports need to be changed to accommodate increased traffic?

Ms. SALE. I suspect that there are some that we have not fixed yet and that there are places where we have some real capital improvement agenda that we need to work, but in those areas where over time, as Sam referred to it, that we had that major congressional push and some special authorization, we have been working with GSA, and Customs and INS are arm-in-arm in setting the requirements, defining the floor plans, building those facilities to meet our operational needs. In fact, in many of them, putting together a single place for our supervisors to sit together and oversee the operation of the port—in those facilities where that work is done, we feel very comfortable that we have built for growth—that we have actually built for the expansion that we can anticipate.

Mr. BANKS. Every facility—

Mr. CONDIT. Pardon?

Mr. BANKS. That is every facility has been impacted, from Brownsville to San Ysidro.

Ms. SALE. That is right.

Mr. BANKS. The last changes I believe are to be delivered by 1997. That is when it should be completed. As Chris said, there is also room for expansion. For truck inspections, we went from 300 bays to over 900, and we have got the capacity to double that if necessary. So, there was a lot of foresight out there to—for Congress to provide us with that money to do this thing. We are actually in better shape than we have ever been historically.

Mr. CONDIT. You responded to the effects of NAFTA on legal and illegal immigration and business—people coming over—and I take it that you think that is sort of overstated by the experts and so-called experts and by the GAO. What do you think of the impact



that NAFTA will have on your ability to carry out your responsibilities as it relates to smuggling drugs across the border?

Mr. BANKS. Mixed. There is no question we are going to continue to get increased trade. Anytime you get increased trade, there is the potential in traffic—

Mr. CONDIT. It does loosen up some of the policies for Government.

Mr. BANKS. No, sir. It does not loosen it up at all.

Mr. CONDIT. The commercial trucking?

Mr. BANKS. It does not change the inspection process. The one thing that has maybe some level of concern is the trucks—trucks are going to be allowed to move through now. That will be a factor. We still get a great extent of those trucks into our compounds now. So, there are concerns. There are some issues where there is cause for concern, and we are preparing to address those. You address them especially on the conveyances with dogs and with your targeting systems.

Mr. CONDIT. So, are you suggesting to me that in regard to commercial traffic trucking that your policy there will not change, in terms of inspections after NAFTA?

Mr. BANKS. That is correct, sir. In fact, the one thing that NAFTA gives us, over and above anything that we have got today, is we can go down into Mexico and view the plants where they are producing the goods. It gives us the authority to go in with our officers to do production verification, to do audits down in Mexico. So, in some ways, we have increased authority.

Mr. CONDIT. Ms. Napolitano, do you have something?

Ms. NAPOLITANO. Thank you, sir. One of the things that comes to mind when you are talking about the increase in truck traffic, what arrangements are you making with California or with any other State in regard to the legality of these people driving on American roads? Because there is a great concern about their training, about a whole rack of issues that come into play. Because you initially will be checking their cargo, their bills of lading, et cetera, do you also check those other documents?

Mr. BANKS. We do. Not every truck that comes in. This is going to be a difficult issue to make sure that it is done absolutely correctly—that they have the proper insurance, that the trucks meet the right safety standards. We work with the Bureau of Motor Carrier Safety today to check whether or not they have insurance and adequate insurance levels. We work with the State inspection authorities to ensure that they meet the safety requirements. In fact, we invite those inspection agencies into our import lots to be able to view the trucks before they ever get on the roads. There is going to be quite a transition that has to be made in terms of the conditions of the trucks.

Ms. NAPOLITANO. I understand. That is why we are trying to think ahead in terms of safety. Are the other agencies cooperating with you and are you cooperating with them?

Mr. BANKS. Yes.

Ms. NAPOLITANO. Are you going to allow them maybe to have an onsite inspector to check these things?

Mr. BANKS. We do today. We actually have the Bureau of Motor Carrier Safety people that come into our import lots today, and we



work side-by-side with them. In fact, we work almost under their supervision, because they are the real technical experts when it comes to this. We do blitzes. We do periodic checks. We are working with them all the time right now.

Mr. CONDIT. I have a couple of quick questions that I need to get on the record. We may want to followup with some written questions. Do Customs and INS border inspectors receive comparable compensation for comparable work? How about overtime?

Ms. SALE. Do we have a single answer to that question?

Mr. BANKS. No, we do not have a single answer to that one. We do have differences. There was just a new compensation plan that was introduced for Customs inspectors and K-9 enforcement officers. It is somewhat radically different—

Ms. SALE. That is right.

Mr. BANKS [continuing]. From what we have ever had before. There is a 7-day work week. You do not get Sundays off. This is a regularly scheduled day. Certain of the compensation now goes into retirement, which it has never done before. We have made this thing as open as possible to the Immigration Service to decide if they like it. Our officers are not totally convinced they like it yet. You may want to wait until you see what the reaction of the Customs officers is before you embark on it.

Ms. SALE. We have traditionally operated with two compensation systems—for Customs, the 1911 Act, which will be supplanted by the 1992 Act, or whatever they are going to call it, and for us the 1931 Act. Both are terribly antiquated acts causing us, for instance, to pay people 8 hours of pay for—if we call them into work 1 hour, especially on Sundays and things of that nature—that need amendment. Customs was, frankly, ahead of us in putting together a package of this nature. INS was in the process of developing such a package and getting it through review in the executive, when the Customs' plan actually got enacted in statute, without our realizing they were that far—

Mr. BANKS. Our oversight committee was very aggressive on—

Ms. SALE [continuing]. On schedule.

Mr. BANKS [continuing]. This particular issue.

Ms. SALE. That is right. We have developed a similar proposal and it is in undergoing review by the administration. It has not been approved for introduction to Congress, but it is a concern. You cannot ask people to work similar jobs, to be responsible for cross-designation of duties and have the perception of disparity in their pay. That is an issue that we need to work on and that the administration understands is a very vital concern to us. What we would like to do, to the extent that we can, is parallel the Customs' proposal, because it makes more sense.

Mr. CONDIT. So, it is a possible rub with the employees?

Ms. SALE. Yes, it would be.

Mr. CONDIT. It could cause an employee morale problem?

Mr. BANKS. Yes, sir.

Ms. SALE. It is absolutely an issue that we need to be concerned about.

Mr. BANKS. Yes.

Mr. CONDIT. OK. You have been very kind and very convincing and we appreciate very much—yes, did you have a question?

Ms. NAPOLITANO. Can I have one more?

Mr. CONDIT. Sure.

Ms. NAPOLITANO. Actually, there was a reference to what happened in El Paso. By the way, every time you say Brownsville—I was born and raised in Brownsville—

Ms. SALE. Oh.

Ms. NAPOLITANO. It is my home town.

Ms. SALE. How nice.

Ms. NAPOLITANO. When you talked about holding the line in Juarez and El Paso, we heard the reaction from the business was tremendous because of the impact it had on the economy. What kind of workable program are you instituting with the mayor and that community to be able to find a solution so that they do not get so heavily impacted? Because, as you state, these are mostly day-trippers. They go back and forth—this is where they shop. I was at the border in Juarez. We toured the border, Chief Reyes, and they practically walk in. It is another border crossing; the river itself. The fact that the businesses thrive on these people coming in to do their shopping and then go back. If it happens, say that San Diego, San Ysidro, or Otay, institute this same program, what plans have you come up with—or what are you suggesting that your agency work in cooperation with the locals—not only the chiefs, the mayors, but also the business communities?

Ms. SALE. Let me begin by saying that the Chamber of Commerce was also among the people that Chief Reyes consulted with and discussed his—what the community's concerns were before he engaged in articulating this proposal and proceeded. There is a mixed bag. I mean, there are some businesses right in the border area who suffered revenue losses because some of the customers did not come in any longer. There are other businesses who do not feel the same way. This issue is never simple, and it is never straight forward. You can only make half the people happy half of the time.

Ms. NAPOLITANO. No, I understand. The figures were quoted at 80 percent of revenue loss.

Ms. SALE. For those people right in the border area.

Ms. NAPOLITANO. Right.

Ms. SALE. We also have interesting data, for instance, from the railroad companies and others about fewer losses of a different nature. So, you have to look at who is losing what in this context.

Ms. NAPOLITANO. So, not all of the information got out to the general public?

Ms. SALE. I do not think it is done yet, right. We are actually continuing to do an assessment of the community impact, not just the immigration issues.

One of the agendas that we are working on is—and one of the things that we did work on during this period of time—we are all for legal immigration.

Ms. NAPOLITANO. Correct.

Ms. SALE. We are all for legal entry into the United States. So, while Chief Reyes put together his operation, we enhanced our staffing at the port and we put special emphasis on moving border crossing cards and other of those kinds of permissions to enable people to come in. One of the difficulties in a community like El

Paso is that many of these people are coming in to work illegally. Therein we have a different rub over whether it is businesses' interests to employ someone at subminimum wages, which is an illegal activity under the employee sanctions provisions of the Immigration Reform and Control Act, and our interest in protecting jobs for people who are qualified and authorized to work in the United States, some of whom are migrants and some of whom are not. There is a different tension there of an economic nature. I think we need to work collectively.

There is something called the Commission on Immigration Reform, which was established under the 1990 Immigration Act, to advise Congress and to look at these issues on a more sort of third-party basis. They will, in fact, be in California and in El Paso next week.

Ms. NAPOLITANO. They will be here next Monday.

Ms. SALE. They are here next Monday. You are probably visiting with them.

Ms. NAPOLITANO. Yes, I am.

Ms. SALE. We are hoping that some of their work will help us elicit and define some of these issues. Every chief and every district director in the INS knows that they do not engage in a major operation without having done a consultation with the local communities. We do not put a fence up if we do not have the mayor and the chamber and the chief of police willing to work with us. We do not run a major operation like this without their consultation.

Ms. NAPOLITANO. My last question, and then I will quit. When you are talking about catching the people who run drugs across, in whatever way, shape or form, when they are caught, are they turned over to an agency? What steps are taken to either return them or—because we are finding that we are incarcerating a lot of undocumented—that have broken the law, and we are paying for incarcerating them. The treaty that California specifically has with Mexico does not allow for the return of those felons without the consent of the felon.

Ms. SALE. That is a voluntary return.

Ms. NAPOLITANO. Precisely.

Ms. SALE. Exactly.

Ms. NAPOLITANO. It makes it a little rougher. So, it has got to be at the Federal level that those changes are going to have to be addressed—a renegotiation of the treaty, and several other things come into play. What do you do with these people?

Ms. SALE. We arrest them and hold them and then prosecute. They have broken a law. From our perspective they are bad people and they should not be kind of walked across the river so they can do it again tomorrow. I mean, from a criminal law enforcement standpoint, they need to be prosecuted and they need to be held accountable for their behavior. That is what the criminal justice systems does and the judicial system participates obviously.

From the standpoint of the prisoner exchange agenda, that is an item that Attorney General Reno has spoken to her counterpart in Mexico and to President Salinas about and that is on the Department of Justice's agenda for a revisit of the treaty agreements inherent to that process. It is something that I think you will see some activity on. The ultimate result is something that is going to



have to be negotiated on a diplomatic basis over time. It is very hot on Attorney General Reno's agenda. I can assure you that it is not something that she is going to let go of.

Ms. NAPOLITANO. Thank you very much.

Mr. CONDIT. We thank both of you for being here very much. You have been here for almost 2 hours.

Ms. SALE. Thank you.

Mr. CONDIT. You have been very kind with your time. We appreciate it. We wish both of you a very happy holiday.

Ms. SALE. Thank you for your interest. It has been very nice to meet you both.

Mr. CONDIT. We are delighted to have our colleague from the California Legislature with us today. She represents the 58th Assembly District. She chairs a subcommittee.

Ms. NAPOLITANO. A subcommittee.

Mr. CONDIT [continuing]. A subcommittee on immigration for the State of California. We are delighted to have her. She is going to testify. She has been here before.

#### STATEMENT OF GRACE NAPOLITANO, CALIFORNIA STATE ASSEMBLY, 58TH DISTRICT

Ms. NAPOLITANO. Thank you, Congressman. I apologize for not having copies of the testimony. I certainly want to thank you and the members of your committee for the invitation to speak before you today.

As you indicated, I am the chair of the Assembly Select Committee on Statewide Immigration Impact in the California Legislature. I certainly express our thanks and appreciation for your coming to California and to hearing firsthand the testimony of State, local, and Federal officials on the true impact of immigration on our State.

To begin to understand the problems associated with our southern border region, it is important to place the issue of immigration in general in context. With the exception of the unconscionable internment of Californians of Japanese descent during World War II, Immigration had, until recently, generally been regarded as a benefit to the State for the past 60 years. It was not until the recession that began in the 1990's, which has continued longer than any economic downturn since the Great Depression of the 1930's, that immigrants have once again descended to the status of scapegoat for many of the California problems.

It is as a result of the inflammatory rhetoric that we in the California Legislature have suddenly been flooded by suggested legislation concerning immigration. The reality is that many of the policy changes that have been proposed to stem the flow of undocumented immigration can be effected only by congressional action or by changes in the policy of U.S. Immigration and Naturalization Service. They are therefore directly within the scope of your subcommittee and beyond the scope of State or local government.

Border crossing and Border Patrol policies obviously fall in this category, as do all the policies of the INS and its subordinate agencies. This does not mean that California is incapable of assisting the Federal Government in dealing with the issue. The hearing, for example, is an essential part of our State's ability to work together



with the officials of Federal Government to achieve answers to common concerns. The problem we are trying to understand in assessing the true impact of immigration on the border is we simply do not have enough information. Much of what we know is being ignored.

For example, we know that these facts about immigration from the INS—that the total number of immigrants admitted to the United States in 1992 actually declined by almost 50 percent compared to 1991. Apprehensions of deportable aliens decreased. The republics now of the former Soviet Union surpassed all other countries for refugee arrivals. The naturalization rates tended to be the highest for eastern Europeans, Asians, and African countries. There is much more that we do not know. Numbers which have been quoted pertaining to the undocumented immigrants in this State concerning the public cost of social services, education, or their numerical totals is simply a projection based on estimates.

To my knowledge and to the knowledge of my membership, no Government entity, local, State, or Federal, other than the State Department of Corrections and perhaps the U.S. Bureau of Prisons knows how many—actually how many undocumented persons they have served or treated during the course of any one year. Certainly, no Government entity has the data required to pin-point the numbers of undocumented persons in California or the United States, for that matter.

We have seen various so-called credible statements and estimates placing California's total as low as 600,000 and as high as 2 million. It is also essential that we keep one thing in mind at all times. People come to this country for jobs and a better way of life, not to rob us or to get on welfare or take our health care funds.

We quite literally do not know much about which of these immigrants use these services because nobody seems to keep any records of them or how long they use them. We do not know about how the public services affect immigrants' linguistic skills, their economic advancement or their children's future economic prospects. We do know that people come here to work, not to obtain drivers licenses, and certainly not to go on the public dole.

Another problem is defining who is or who is not an undocumented person. We know, for example, that much of the problem of illegal immigration also stems from people who enter this country legally by way of visas, by air, by sea, or through the border crossings, both north and south borders, not just the south border, and then achieve illegal status by overstaying their visas sometimes and many times we found out on a permanent basis.

According to the Assembly Office of Research, visa overstayers account for approximately 40 percent of the problem of illegal immigration. The truth is that illegal immigration, if we define it in the broadest of terms, can be seen as any foreign-born person present in the United States who is on a deportable status, including, for example, a tourist who overstays it for a day or two.

We also know that people from around the world come to this State, including those from Canada and Central America. Undocumented people do not just cross the border from Mexico to California and stay here permanently. Undocumented persons who cross the border also move north of San Diego County and many leave

California altogether to other States. Tremendous numbers of foreign-born people also immigrate out of the United States altogether.

Unfortunately, we have a major data gap. We do not know how many people leave the United States. According to the 1992 statistical handbook of INS, the United States stopped collecting statistics on immigration out of the United States in 1957. That is a long time. No direct measure of immigration has been available since that time. We believe that it is just as important to know how many people leave our country as knowing how many people enter our country, especially because estimates seem to indicate that the number of foreign born people immigrating out of the country is increasing steadily.

The INS notes that, between 1980 and 1990, approximately 30 million immigrants were admitted to the United States, and an estimated 10 million foreign born peoples immigrated. Think about it. Because over these 10 million foreign born people who left the United States, we do not even know how many of them came here illegally in the first place. There is just no record.

Filling in this data gap and knowing the information will help us to better assess the true impact of immigration on our State and on our borders in our Nation. All of these data gaps significantly influence our ability to adequately create a border enforcement policy. Yet, despite the lack of verifiable, reliable, and even credible information, we have been flooded with proposals about how to handle the problems associated with illegal immigration and how to best protect our border.

One thing that has become quite clear to us as we have studied the problem of illegal immigration in our committee, is we absolutely cannot allow our Mexican/American border to be militarized. Our border is a peaceful one and it must remain so.

It is essential that we work with the Mexican Government to maximize our country's ability to compete in the world marketplace and to reduce the problems associated with illegal immigration. To militarize our border will not help us to achieve our goals. We are not at war with Mexico. We cannot afford to overreact to the problems in our economy by alienating our allies with unnecessary military threats. It is equally important that we do not use the National Guard for actual border enforcement, if we are to continue to protect civil rights and human rights, two things our country is built on, we cannot afford to allow untrained and unqualified people to enforce our immigration policies at our borders. As we hear more and more information, it takes them 3 years to actually train these very efficient members.

To be effective, our border enforcement personnel must be trained to fully protect human rights and civil rights, and must ensure the personal safety of all concerned. They must respect the human dignity of all persons at all times so that abuses will not occur. They must also be professionals who have had extensive training to best perform their job duties. Unfortunately, the National Guard, by definition, would not be able to achieve that. At the same time, we must also set up independent investigations and review civil rights abuses committed by Border Patrol and U.S. Customs Service personnel.

During the course of our select committee hearings, we have repeatedly heard stories about abuse and acts of violence perpetrated against immigrants. Yes, they are breaking the law, however, we need to look at it humanely. Making the Border Patrol and Customs officials more accountable for their actions is a major step toward living up to the American promise of equality and respect for all people.

It is clearly important that border enforcement support personnel available must be assisted in the most sophisticated and up-to-date equipment possible to do an effective job of enforcing our borders. We are hearing that this is something that is happening, which is information that my committee had not been privy to.

We must caution everyone to remember that there is a direct relationship between local economies and illegal immigration. That was brought out by Ms. Sale. That must be looked at. California cannot afford to be overly eager to press forward with quick-fix solutions that not only do not stop the border problem, but may actually harm our State's ability to respond to the current economic crisis. For this reason, we are convinced that we must have more information about the impact of a Border Cross Patrol.

I fully support the California Assembly Latino Caucus' call for a congressional study on the impact of the proposed border crossing fee. It is utterly essential that we have at least some idea as to how we will be affected before we act prematurely. Once we have the fee in place, there is no turning back if it does not achieve what it was intended to do.

Our economy is too delicate and the stakes too high to allow us to act with haste, only to regret it later. The border crossing toll may well be the best idea we have ever had. We just do not know enough about it to support it.

In addition, we believe that we must split the INS into two separate agencies. That has been a bone of contention. It makes sense for us to create a border enforcement and consolidate it with the U.S. Customs. Since both agencies guard ports of entry into the United States, their consolidation would reduce duplication of efforts and increase the effectiveness by encouraging an increase in Border Patrol agents and upgrading their equipment. I am glad to hear that this is already being effected. This move would thereby increase the INS to adequately process the citizenship requests and other major problems that our people face.

In the course of our hearings, we have repeatedly again heard stories about people applying for citizenship, only to be delayed by INS backlogs for months or even years. In California, there are approximately 1.7 million amnesty recipients statewide, and 3.2 million nationwide. In total, there are 5.2 million permanent residents in California alone that need to become citizens.

Currently, the INS can process only 60,000 per year. At this rate it will take 87 years to process permanent residents to become citizens. By splitting the INS into two separate organizations, we will possibly better reinforce our immigration policies and remain responsive to the citizenship processing.

Ultimately, California must have the money it needs if we are to successfully comply with the current law. In addition, creating an Office of Immigration and Refugee Affairs as the lead State agency



to deal with the immigrant and refugee issues, makes sense for the State of California, especially since we receive more immigrants than any other State in the Union.

The ideas we have mentioned when combined, will dramatically change the way we deal with our borders and the enforcement—additional points that are made there will help maybe create and bring something to the forefront. We are firmly convinced that, if we were given the opportunity to fully enforce our wages and labor laws, we would see a dramatic decrease in illegal immigration.

The truth is that people come here for jobs, not for welfare benefits or health concerns. According to Dr. Wendy Walker Moffit, or U.C. Berkeley School of Social Welfare, the total use of public assistance, by the undocumented, adds up to less than six-tenths of 1 percent. That is of the total population of the State. That is six-tenths of 1 percent. It is almost statistically negligible. These are the figures that they have been able to amass through the University research.

It is becoming increasingly clear to us, as our committee has collected testimony and reports and data, that there does not now exist enough accurate information to make an accurate, honest assessment of the effects of California's most recent wave of immigrants on our State economy or our budget.

The testimony of my select committee this year has caused us to look with great caution at immigration studies that purport to assign specific numbers and precise public cost to a particular group of immigrants, particularly due to the methodology that has been widely challenged.

My committee report when issued will attempt to view the immigration issue with balance, with caution, with common sense, and with an eye toward good research and acceptable methodology. Therefore, our basic recommendation is that this congressional committee continue its fact-finding capacity, question the methodology, the numbers and estimates in every report and briefing document you see and try to ensure that each of your actions is based on concrete evidence, not opinion, estimates or assertions.

Thank you very much for the opportunity to testify. I will be sure to leave this with you and will follow it up.

Mr. CONDIT. Thank you very much. We have just a couple of questions. If you want to respond to them in writing, it is fine as well. Our subcommittee held a hearing in August and discussed a modest border crossing fee to enter the country from Mexico. We had the mayor of El Paso there and a variety of other people who gave their view on this.

Senator Feinstein has introduced legislation to implement this idea. Does your subcommittee or select committee have an opinion or position on that particular proposal—I know there are a number of proposals, but on that particular proposal?

Ms. NAPOLITANO. No. We have discussed it. The fact remains that we do not have enough information to be able to take a look at what cost there is to California, what kind of backlog you would cause—how would you implement it at the border, what kind of backlog it would create. You already have on peak hours—maybe a half an hour to an hour delay, maybe a 2-hour wait, especially on holidays. When you are talking about the border cross fee, some-



body has got to collect the fee. Somebody has got to maintain it and enforce it if need be. We have no cost figures. We have no way of knowing whether or not it would be beneficial. So, as I said, we are hoping to be able to get the information so we can assess it and then render a decision.

Mr. CONDIT. One of the interesting things we have found is that the people of El Paso probably take a different view of this than a lot of other parts of the country. They were adamantly opposed to it. Their assertion was that it impacted the economy, and there would be a loss of revenue, et cetera. We will try to get some of that information and maybe forward it on to your committee. Maybe that would be helpful in regard to taking a position one way or the other. I am not advocating it—I am just wondering whether you had a position.

Ms. NAPOLITANO. No. We have not taken a position, until we get some facts that we can really take a good look at. I can understand the border impact in El Paso, because most of the Texas borders charge a fee already.

Mr. CONDIT. Right. For the bridges?

Ms. NAPOLITANO. Correct. So that all you are doing is you are adding a fee. I was born and raised on a border town.

Mr. CONDIT. Right.

Ms. NAPOLITANO. I could go across and see my mother's relatives.

Mr. CONDIT. Right.

Ms. NAPOLITANO. People would come over and shop. If they forgot something, they would go back because it was not that far a drive and the toll fee was minimal. If you are going to start charging them an additional fee—it used to be a nickel when I was crossing that border. It went up to 25 and 50 cents. I do not know what it is now. So, that would stem the flow of the people coming to purchase goods.

Mr. CONDIT. To shop or whatever.

Ms. NAPOLITANO [continuing]. To shop in the United States.

Mr. CONDIT. Well, they view that as a fee on top of a fee. They already have a fee.

Ms. NAPOLITANO. Correct.

Mr. CONDIT [continuing]. For maintenance of the bridge or road maintenance or whatever. That is a local fee.

Ms. NAPOLITANO. That is correct.

Mr. CONDIT. Do you or your select committee have any comments or suggestions for INS or Customs regarding immigration and drug trafficking? Has your select committee or you taken a look at that or made any suggestions on what we might be helpful in curtailing this problem?

Ms. NAPOLITANO. Generally, we have only discussed and we have requested information from INS when they testified at our hearing as to the impact of their fence on the border—down here in San Ysidro.

Mr. CONDIT. Right.

Ms. NAPOLITANO [continuing]. To stem the flow. It was not really to stem the flow of immigrants—undocumented—but rather the flow of drugs. Yet, when we drove through, you could see the many holes where they pulled them down to get through.

Mr. CONDIT. Right.

Ms. NAPOLITANO. You know, they do all kinds of things. So, obviously, that is only a temporary measure. It is unsightly. I would rather have some other means; however, the topography is such that it precludes them from really addressing it successfully. Brownsville has a river, the Rio Grande; El Paso has a river, so they have a natural way boundary, to be able to stem it. In San Ysidro there really is not anything but canyon-like land. Maybe something you might consider looking at later on is providing a natural level zone? To address the whole area—not only is it unsightly, officers have died in chases at night. So, that is something you might be able to do to make it a little easier and safer for them to patrol.

Mr. CONDIT. Right.

Ms. NAPOLITANO. It is hard. I have seen——

Mr. CONDIT. Has the select committee been on the border?

Ms. NAPOLITANO. Oh, yes.

Mr. CONDIT. Have they gone to Texas?

Ms. NAPOLITANO. In El Paso also. Yes. We took both tours.

Mr. CONDIT. Did you go——

Ms. NAPOLITANO. I met Chief Reyes and De La Vina.

Mr. CONDIT. Do you think there is anything that INS and Customs can do to improve their efforts here in southern California?

Ms. NAPOLITANO. You mean outside the border region?

Mr. CONDIT. Yes, outside the border—more into the LAX—LA area?

Ms. NAPOLITANO. Well, some of the things we are really concerned about are at the ports of entry, such as the airports and water ports. As you are well aware, in San Francisco, there were the boat loads. What are they doing to try to monitor and track those to prevent them from coming in? Are they doing proactive things in the sender country where these masses are migrating to us? Whoever is arranging for these illegals to travel to this country, are they addressing that area with those governments, to be more proactive rather than reactive when they reach our border—when they reach our shores?

Mr. CONDIT. So, you think that we ought to make a more concentrated effort on the people who make the arrangements—document and transportation of those to bring them in illegally?

Ms. NAPOLITANO. Right.

Mr. CONDIT. There is a business going on——

Ms. NAPOLITANO. There is.

Mr. CONDIT [continuing]. A big business going on.

Ms. NAPOLITANO. Tremendous. I think all governments ought to get involved. Also, Assemblywoman Bornstein had a bill aimed at increasing penalties for smugglers. I think we need to go beyond that. I think we need to really make it unprofitable to where you get caught. You lose all the way around—freedom, assets, etc.

Mr. CONDIT. I am not sure—we did some preliminary investigation on asset forfeiture, like we do drug dealers, people who print documents or people who have boats and bring people in. I know, in some ways, they can hold some of that stuff. Do you think that is a desirable thing to do?

Ms. NAPOLITANO. That, and increasing the task forces to deal with the printing of the illegal documents.

Mr. CONDIT. Yes.

Ms. NAPOLITANO. It was brought to our attention in Santa Cruz, by Congressman Farr, no less, that they could walk to a certain corner and purchase for about \$300 a whole packet of driver's licenses, INS card, and everything else you wanted. Those are the kinds of things you need to start addressing to cut the flow so that these people then have no options left but to stay in their country.

Mr. CONDIT. Yes. Ms. Woolsey.

Ms. WOOLSEY. I have one question. Has your committee come up with a recommendation on how to handle undocumented persons who break U.S. law? How would you recommend that be handled?

Ms. NAPOLITANO. We are not done with our committee hearings. We held our last one last week in San Bernardino, and the last one is going to be in Los Angeles. We had to postpone one in November, which was due in Oceanside. What the findings will be I could not project because this is up to the committee's input. All of us have input into the process. We are finding that there are going to be some recommendations, especially in the enforcement of labor laws, possibly employer sanctions, although we have got the hotel industry coming to us, they came to us in San Bernardino and—the agricultural business telling us you are going to decimate their workforce if you cannot have immigrants to do the job, because they make underground economy that fosters the growth of our regular economy. So, maybe they need to start looking at how they are going to address the necessary labor force to be able to do the job, because it is going to cost all of us as taxpayers more. Every citizen has got to understand that when these labor law enforcements, these sanctions, are going to be enforced, wages are going to have to shoot up because somebody has got to do that type of work. So, that means what you eat, what you wear, where you sleep, is going to cost you more.

Ms. WOOLSEY. Well, certainly we have certification for agricultural workers that come in the country seasonally. We do have precedence for that.

Ms. NAPOLITANO. Right. Right.

Ms. WOOLSEY. What I am talking about is illegal.

Ms. NAPOLITANO. Well, you have, in all of this underground economy, people who employ undocumented and abuse their—and so you need to find those employers and start our existing laws.

Ms. WOOLSEY. The precedence that has been set.

Ms. NAPOLITANO. Right.

Ms. WOOLSEY. That does not mean that we cannot.

Ms. NAPOLITANO. No, but it is not being enforced. That is the problem.

Ms. WOOLSEY. That is right. Do you have any personal recommendations about undocumented workers that break the law?

Ms. NAPOLITANO. The jury is still out when it comes to real hard-line stances. We do not agree with illegal immigration and we do not want it in California or anywhere else. We do not want to be the port of entry for other States, because it hurts our economy as well as theirs.

When we look at what we want to do, I think a lot has to do with what California cannot do, because it is mostly a Federal problem. When you talk about visa overstays, about border enforcement, you



do not have enough patrols to do the job. This is what the chief told us when we were there. Give us more men to do the job and we will do the job. We will get it done. Yet the south border is not the only place where immigration comes through. You get it through the water port, the ports of entry, you get them from airports.

Yes. If we can get the agencies to talk to each other, as we are doing here, as we have done with other agencies, and together find out what will work best. Because what I want may not be in effect what will be most effective.

Mr. CONDIT. Has your select committee looked at NAFTA and the impact of NAFTA on the immigration in California? If you have not, will you do that as well?

Ms. NAPOLITANO. Because we were not sure which way the vote was going, it really has not come into discussion. That is one of the things we are going to need to address this year—

Mr. CONDIT. You should have called us. We could have told you which way it was going to go. Go ahead. I am sorry.

Ms. NAPOLITANO. My concern, Congressman, has to do with the side agreements. My concern with NAFTA is the span of the years that it is going to take from Mexico's economy to grow so that that filtering of the undocumented, who come for a better life, better jobs may diminish. First it was 5 to 10 years, and it went to 15, and now Doris Meissner says it is 20.

Mr. CONDIT. Right.

Ms. NAPOLITANO. I am thinking, 20 years. I have got mostly a residential constituency. More are going to be out of jobs, because a lot of our companies are already closing. AT&T announced that they are moving out 2,800 jobs. Northrop in my area is closing down, 9,000 jobs. What are we going to be able to do to help our constituents—who is going to pay for their benefits, for their retraining? Most of all, who is going to pay for their job creation? What kind of jobs are we going to offer them?

Ms. WOOLSEY. You are talking to the choir here.

Ms. NAPOLITANO. I know. I want to tell you how I feel.

Ms. WOOLSEY. Those are the concerns of both of us.

Ms. NAPOLITANO. OK. That was my biggest concern with NAFTA.

Mr. CONDIT. Could you do us a favor? I do not know what timetable your select committee is going to have their recommendations; but, our hope is that sometime next year that we put together a comprehensive recommendation to the full Government Operations Committee. If we could work in concern with your select committee, in terms of our recommendation.

Ms. NAPOLITANO. I was hoping you would say that.

Mr. CONDIT [continuing]. Bringing part of your suggestions in and letting us evaluate them and incorporate them, if we feel they should be, we would like that very much, if you would allow us the opportunity to do that.

Ms. NAPOLITANO. I would be delighted. In fact, if I may, I would also like to have some of your findings, so that we could incorporate them in ours.

Mr. CONDIT. Certainly.

Ms. NAPOLITANO. We have asked for input from everybody—anybody who is willing to talk to us and give us information. It is



great. People have come across beautifully in sharing with us a lot of their data.

Mr. CONDIT. We appreciate that. We will absolutely do that.

Ms. NAPOLITANO. We appreciate that.

Mr. CONDIT. Thank you very much.

Ms. NAPOLITANO. Again, thank you for being here and taking this project on.

Mr. CONDIT. You have been very good about showing up. This is the second time you have shown up, and we appreciate it very much.

Ms. WOOLSEY. Mr. Chairman, I have to ask to be forgiven. I have to leave.

Mr. CONDIT. Released.

Ms. WOOLSEY. I have to be released. I am so sorry to miss the next panel. I will read the testimony. I saw your questions. I did not have any others that I could think of at the moment.

Mr. CONDIT. That is fine.

Ms. WOOLSEY. If I do, I will submit them in writing.

Mr. CONDIT. I realize that. I know that you both have other things to do. I will, with the permission of the last panel, I will make sure they get grilled. If they come forward? We need to talk to Mr. Smith, the western regional vice president of the American Federation of Government Employees, the AFL-CIO, and Debbie Billett, the legislative liaison for the National Treasury Employees Union.

[Witnesses sworn.]

Mr. CONDIT. Let the record indicate they said I do. Mr. Smith, why don't we start with you? If you want to read your statement, you are welcome to do so. If you want to paraphrase it and add it into the record, you are welcome to do that as well.

Mr. SMITH. Mr. Chairman, I would like to read it, since I flew all night to get here.

Mr. CONDIT. You can read it.

Mr. SMITH. I might do better that way.

Mr. CONDIT. It is you and me. Anything you want to do we will do.

#### **STATEMENT OF DENNIS J. SMITH, VICE PRESIDENT, WESTERN REGION, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO**

Mr. SMITH. Mr. Chairman, my name is Dennis Smith. I am the western regional vice president of AFG's National Immigration and Naturalization Service Council. AFGE represents over 50,000 law enforcement and protective employees nationwide. It includes those in the INS, the Border Patrol, the Bureau of Prisons, the U.S. Marshals Service, and various agency police officers. The National Immigration and Naturalization Service Council represents Immigration inspectors and all other Immigration officers working at our ports of entry and district offices around the United States. This, I would like to add, is a distinctly different working group from the Border Patrol, the people we represent. I also feel I have a distinct advantage here today, since I am also employed by the Immigration Service as a special agent in Honolulu, HI, having started in 1974 as a Border Patrol agent.

AFGE is pleased with the efforts of this subcommittee. We would be remiss if we did not recognize, in particular, the contributions of the California delegation and the other members of this subcommittee in studying an important issue on law enforcement. The recent GAO study and this hearing should open the door to a better understanding of the problems our members face. As this subcommittee has heard, control over our borders needs to be reasserted. Our citizens must know that their Government is doing everything possible to ensure that they are safe at home and on our streets. We must also ensure their immigration laws are effectively and humanely enforced and that management problems do not stand in the way of our members' efforts to get the job done.

We have reviewed the GAO draft report concerning possible reorganization of the Customs Service and the Immigration and Naturalization Service. Two issues were addressed by GAO. They are: One, the role of the Customs Service and INS on the southwest border, and the degree to which responsibilities of the agencies overlap; and, two, current coordination efforts and alternatives for improvements, including a possible merger of the inspection functions at border ports of entry.

While we appreciate the effort put forth by the GAO in the study, AFGE believes the study was not broad enough to reach the conclusions and options it sets out. We believe the report to be flawed and that it is based on a sampling at only three southwestern ports of entry. Further, much more data could be collected than the limited amount gathered at El Centro, El Paso, and Laredo, although these are among the busiest border ports. There are other major ports of entry, including San Ysidro, CA, the largest one in the world, and others on the northern border.

The report is unclear as to how the options and recommendations it sets forth would impact on the northern and interior ports where conditions are dissimilar. We believe any effort to control our borders must deal not only with our southern border operations, but with every aspect of INS operations on the borders and in the interior. Effective control of our borders does not begin or end with prudent management of our operations at the southern border ports of entry. Yet another effort at resolving our immigration problem by fixing one part of the problem, will only make matters worse.

The report also fails to examine either agency's operations away from border ports of entry. It does not consider the effect of the transfer of control of southern border ports on the inspections and other programs left in Customs and INS elsewhere. Efficiency would be compromised if one agency controlled land border ports while another maintained control of air and sea ports and the area between land ports.

We recognize that the Customs Service has a staffing advantage over INS. This advantage exists because of past favorable congressional support of Customs in contrast to the INS. This disparity must be remedied by the Congress as a step toward improving control over the border and effective management of our ports of entry.

The President and the Congress have recently acted to increase staffing for the Border Patrol. However, we must recognize that putting more staff on the line between our ports of entry increases

pressure on the ports of entry, just like a funnel. A comprehensive study of all border and interior enforcement operations of the Service is needed to determine how much and what types of additional staff are needed to enable the service to perform its mission. AFGE strongly believes that such a study should be conducted before any changes are made. This study should be far broader in scope than that undertaken by GAO and should include efforts to determine the real levels of staffing necessary to properly enforce our immigration laws on the border, at and away from our ports of entry and in the interior. Such a study should also examine the separation of law enforcement responsibilities from the collection of revenue.

We also strongly recommend that all law enforcement responsibilities, including border inspection of people, should be consolidated into the Department of Justice, while the Treasury Department retains the jurisdiction over revenue collection. Notwithstanding the recent decisions made by the Department of Justice concerning the Drug Enforcement Administration and the FBI, we would further suggest that the drug interdiction function of the Customs Service be transferred to DEA. The law enforcement functions of the Bureau of Alcohol, Tobacco, and Firearms could similarly be located within the Justice Department, while any revenue functions could be retained with the Treasury Department.

We also believe that all primary inspection functions at land ports of entry now performed by the Customs Service should be transferred to the INS. Other law enforcement functions of the Customs Service should be transferred to the INS, Border Patrol, or the Drug Enforcement Agency of the Department of Justice. By handling problems in this way, there would be no need to expand Government by establishing yet another law enforcement entity. We believe it is more fiscally responsible to consolidate all law enforcement functions in DOJ, and consolidated fee and revenue collection in the Treasury Department. Without demeaning the effectiveness of Treasury's various subagencies, recent experience in Waco shows conclusively that the law enforcement business is far and away most ably handled by the DOJ under the Nation's chief law enforcement officer, the Attorney General. By using this approach, a major streamlining of INS and Customs functions can take place. All issues of law enforcement, whether immigration or other types of smuggling, would be handled under a single law enforcement agency.

Under our recommendation, the work of enforcing the law of people's origin could still be primarily immigration oriented. The inspection process at all ports of entry for the masses of people seeking entry into the United States is primarily a matter of concern under Immigration law. The limited revenue or Customs duty of the inspection process can easily be and should be handled by Immigration inspectors.

The North American Free Trade Agreement will also impact on the operation of our ports of entry. We believe that the need for Customs inspections will be greatly reduced at land border ports as trade restrictions are eliminated. For this reason alone, recommendations such as those above make the most sense.

All moneys saved by streamlining either the new or existing functions we feel should be used to hire additional INS inspectional personnel for ports of entry.

This concludes my testimony. I would be happy to answer any of your questions, sir.

[The prepared statement of Mr. Smith follows:]



# AFGE

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STATEMENT BY

DENNIS J. SMITH  
VICE PRESIDENT

NATIONAL IMMIGRATION AND NATURALIZATION SERVICE COUNCIL  
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

BEFORE THE

SUBCOMMITTEE ON INFORMATION, JUSTICE,  
TRANSPORTATION AND AGRICULTURE

HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

ON

COORDINATION OF DUTIES BETWEEN INS AND THE  
CUSTOMS SERVICE AT LAND ENTRY PORTS

DECEMBER 10, 1993

LOS ANGELES, CALIFORNIA

Mr. Chairman and Members of the Subcommittee: My name is Dennis J. Smith. I am the Western Region Vice President of AFGE's National Immigration and Naturalization Service Council. AFGE represents over 50,000 law enforcement and protective employees nationwide. This includes those in the INS, the Border Patrol, Bureau of Prisons, United States Marshals Service, and various agency police officers. The National Immigration and Naturalization Service Council represents Immigration Inspectors and all other Immigration Officers working at our ports of entry and District offices around the United States. I thank you for the opportunity to testify today at this hearing on border management issues.

AFGE is pleased with the efforts of this Subcommittee. We would be remiss if we did not recognize in particular the contributions of the California delegation and the other members of this Subcommittee in studying what we believe to be an important issue of law enforcement. The recent GAO study and this hearing should open the door to a better understanding of the problems our members face on a daily basis. As this Subcommittee has heard, control over our borders needs to be reasserted. Our citizens need to know that their government is doing everything possible to ensure that they are safe in their homes and on our streets. We must ensure that our immigration laws are effectively and humanely enforced, and that "management problems" do not stand in the way of our members' efforts to get the job done. We have reviewed the GAO

draft report concerning possible reorganization of the Customs Service and the Immigration and Naturalization Service. Two issues were addressed by the GAO. They are:

1. The role of the Customs Service and INS, with a focus on the southwest border, and the degree to which the responsibilities of the agencies overlap; and
2. Current coordination efforts and alternatives for improvements, including a possible merger of the inspection functions at border ports of entry.

While we appreciate the effort put forth by the GAO in the study, AFGE believes the study was not broad enough to reach the conclusions and options it sets out. We believe the report to be flawed in that it is based on a sampling at only three southwestern ports of entry. Further, much more data should be collected than the limited amount gathered at El Centro, El Paso, and Laredo although these are among the busiest border ports. There are other major ports of entry, including a number on the northern border. The report is unclear as to how the options and recommendations it sets forth would impact on the northern and interior ports where conditions are dissimilar. We believe that any effort to control our borders must deal not only with our southern border operations but with every aspect of INS operations on the borders and in the interior. Effective control of our borders does not begin or end

with prudent management of our operations at the southern border ports of entry, and yet another effort at resolving our "immigration problem" by fixing one part of the problem will only make matters worse.

The GAO report fails to examine either agency's operations away from border ports of entry. It does not consider the effect of the transfer of control of southern border ports on the inspections and other programs left in Customs and INS elsewhere. Efficiency would be compromised if one agency controlled land border ports while another maintained controls of air and sea ports and the area between land ports.

We recognize that the Customs Service has a staffing advantage over INS. This advantage exists because of past favorable Congressional support of Customs in contrast to the INS. This disparity must be remedied by the Congress as a step toward improving control over the border and effective management of our ports of entry. The President and the Congress have recently acted to increase staffing for the Border Patrol. It is time that we recognize that putting more staff on the line between our ports of entry increases pressure on the ports of entry. A comprehensive study of all border and interior enforcement operations of the Service is needed to determine how much and what types of additional staff are needed to enable the Service to effectively perform its mission. AFGE strongly believes that such a study



should be conducted before any changes are made. This study should be far broader in scope than that undertaken by the GAO and ought to include efforts to determine the real levels of staffing necessary to properly enforce our immigration laws on the border, at and away from our ports of entry, and in the interior. Such a study should also examine the separation of law enforcement responsibilities from the collection of revenue.

We also strongly recommend that all law enforcement responsibilities, including border inspections of people, should be consolidated into the Department of Justice while the Treasury Department retains jurisdiction over revenue collection. Notwithstanding the recent decisions made by the Department of Justice vis a vis the Drug Enforcement Administration and the Federal Bureau of Investigations we would further suggest that the drug interdiction function of the Customs Service be transferred to the DEA. The law enforcement functions of the Bureau of Alcohol, Tobacco, and Firearms could similarly be located within the Justice Department while any revenue functions could be retained with the Treasury Department.

We believe that all primary inspection functions at land ports of entry now performed by the Customs Service should be transferred to the INS. Other law enforcement functions of the Customs Service should be transferred to the INS, Border Patrol, or the Drug Enforcement Agency of the Department of Justice. By handling the

problem in this way there would be no need to expand government by establishing yet another law enforcement entity. We believe it is more fiscally responsible to consolidate all law enforcement functions in DOJ and consolidate fee and revenue collection in the Treasaaury Department. Without demeaning the effectiveness of Treasury's various sub-agencies, recent experience in Waco and elsewhere shows conclusively that the law enforcement business is far and away most ably handled by the DOJ under the nation's chief law enforcement officer, the Attorney General.

By using this approach, a major streamlining of INS and Customs functions can take place. All issues of law enforcement, whether immigration or other types of smuggling, would be handled under a single law enforcement agency thereby eliminating the counterproductive rivalry that now exists between the two Inspectional Services.

The record shows that very little duty is collected from people at ports of entry. Most duty is collected on cargo, a completely different process. Under our recommendations, the work of enforcing the law of peoples' origin and other trade laws would still be primarily Immigration oriented. The inspection process at all ports of entry for the masses of people seeking entry to the United States is primarily a matter of concern under immigration law. The limited revenue or Customs duty of the inspection process can easily be and should be handled by the Immigration inspectors.

The North American Free Trade Agreement (NAFTA) will also impact on the operations of our ports of entry. We believe that the need for Customs inspections will be greatly reduced at land ports of entry as trade restrictions are eliminated. For this reason alone, recommendations such as those made above make the most sense.

All monies saved by the streamlining, either the new or existing functions, should be used to hire additional inspector personnel for ports of entry.

This concludes my testimony. I will be happy to answer any questions the Subcommittee may have.

Mr. CONDIT. Thank you very much, Mr. Smith. Thank you very much. You have been very patient this morning. I know you have been here for the entire hearing. I appreciate very much your testimony.

Ms. Billett-Roumell.

**STATEMENT OF DEBBIE BILLET-ROUMELL, LEGISLATIVE  
LIAISON, THE NATIONAL TREASURY EMPLOYEES UNION**

Ms. BILLETT-ROUMELL. Thank you. Mr. Chairman, thank you for holding this hearing on border management. My name is Debbie Billet-Roumell, and I would like the complete statement of Robert M. Tobias entered into the record.

Mr. CONDIT. Without objection.

Ms. BILLETT-ROUMELL. Thank you.

As the exclusive representative for U.S. Customs' employees, NTEU is acutely aware and concerned about coordination problems between the Customs Service and the Immigration and Naturalization Service.

In June 1993, the U.S. General Accounting Office completed its report on border management, entitled "Customs Service and INS, Dual Management Structure for Border Inspections Should be Ended." We believe Congress and interested parties should pursue the recommendations of the NPR before any type of reorganizations are considered. NPR recommended that Customs and INS submit a report to Congress by January 1, 1994, outlining how the agencies will better coordinate their functions. In its report, the GAO cited some very real problems between these two agencies. Before any far-reaching reorganizations take place, we would urge that this subcommittee look at the problems which GAO has noted in its report and demand that the agencies address the problems in their submission to Congress, as part of the NPR recommendations.

I note that, based on today's testimony, it appears that both Customs and INS have put together some good working recommendations as part of the NPR report. I would only urge at least for Customs, and I would think the same would hold true for INS, that they involve the employees in this process. It is ultimately the employees that are carrying out the functions in the field. If changes are just made on high from management, and the employees are not a part of it, there will be resistance. We think that for cooperation to work, that employees at every level need to be involved in what the recommendations are and how they should be carried out.

Obviously, these recommendations would require ongoing congressional oversight. With sufficient congressional oversight, we believe these agencies can work out their coordination problems. The option considered by GAO and the panel of experts to create an additional independent agency, combining the Customs Service and INS is entirely premature and, if implemented, would be ineffective and cost prohibitive.

GAO only visited three southwestern land ports of entry. There are over 130 land border ports of entry. In addition, GAO did not visit any of the 120 air and sea ports. It has not yet been ascertained that the problems of coordination are rampant throughout INS and Customs. Rather, it has only been ascertained that coordination problems exist at land borders. The GAO report



cites no reason why these other various functions of the two agencies ought to be consolidated, nor are any reasons readily apparent.

Significant expenditures would be required to dissolve and merge the inspection of patrol functions of Customs and INS into one agency. Such expense is not consistent with our Government's current cost consciousness and deficit reductions efforts.

The GAO report recommends that this new consolidated agency be an independent agency. If it is determined to merge the entire Customs and INS into one agency, we believe an independent agency would have many pitfalls. First, independence would weaken important links between the agency and the President and between the agency and other agencies at Treasury and Justice. In addition, there is a threat that an independent agency could work at cross purposes with Justice and Treasury. Both Customs and INS would lose true departmental guidance.

NTEU believes that if cooperation between the agency becomes totally impossible, which we do not think will happen, then we would recommend vesting responsibility for primary lane inspections to one agency, and that is the U.S. Customs Service.

I would like to clarify a point that Ms. Sale had made, she stated that the INS is more concerned with the entry of people and that Customs is really not concerned with that on a primary level. We do not believe that that really is true. While Customs is concerned with drugs rather than people, Customs must—when people are coming over the border make the same exact assessment that INS makes. INS is looking to see whether or not that person is suspicious, et cetera. Customs has to do that same exact assessment in terms of determining whether that person would likely be a carrier of drugs or other contraband. So, we believe that they would have an equal need to be responsible for primary inspection.

GAO recognized the advantages of pursuing this option of one primary agency, but rejected it because in the past "policymakers have not acted." We believe that this is not an adequate reason to reject an option. With the passage of NAFTA, drug interdiction at our borders will become increasingly important. Drug enforcement experts have consistently been saying that NAFTA will increase the flow of illegal drugs in our country. INS lacks the focus, training, and resources to adequately protect our borders against the influx of illegal drugs.

The Customs Service has consistently been provided more staff and resources than INS. The Nation is best served by a full cadre of inspectors at the border.

The GAO draft report recognized that Customs clearly has many more resources at its disposal, and this is unlikely to change at any time in the near future. While it is unfortunate that INS has been unable to remedy its staffing shortage, the reality of the situation remains. If INS is unable to meet the challenge of staffing its own agencies, it seems virtually impossible to expect them to receive adequate funding to be the lead agency for all primary inspections.

Again, though, I want to stress that we believe that cooperation between the agencies is really the first way to go and we believe that it is possible.

We thank you for allowing us to share our views on this important matter, and we hope that this subcommittee will work with

all interested parties to ensure better coordination at U.S. land borders and INS and Customs generally. I would be happy to answer any questions that you have on this matter.

[The prepared statement of Mr. Tobias follows:]



STATEMENT OF  
ROBERT M. TOBIAS  
NATIONAL PRESIDENT  
NATIONAL TREASURY EMPLOYEES UNION

BEFORE

THE COMMITTEE ON GOVERNMENT OPERATIONS  
SUBCOMMITTEE ON INFORMATION, JUSTICE, TRANSPORTATION  
AND AGRICULTURE

ON

BORDER MANAGEMENT

DECEMBER 10, 1993

Mr. Chairman and Members of the Subcommittee, thank you for holding this hearing on border management. As the exclusive representative for U.S. Customs employees, I am acutely aware and concerned about coordination problems between the Customs Service and the Immigration and Naturalization Service.

In June, 1993 the U.S. General Accounting Office completed its report on border management, titled Customs Service and INS Dual Management Structure for Border Inspections Should Be Ended. The Report focuses on the rivalry and ineffective cooperation between the Customs Service and INS. The GAO, together with a panel of current and former officials with a background in INS and Customs issues, considered three options concerning problems at the borders:

Option I: Improve coordination within the existing framework of joint staffing of the primary lanes at ports of entry.

Option II: Establish one agency as the lead for primary inspections.

Option III: Create a border management agency by merging the INS Border Patrol and inspection functions with the Customs Service.

The Panel rejected each of these options and instead suggested that an



independent agency be developed to incorporate all functions performed by Customs and INS. The GAO recommended that OMB, Justice and Treasury collaborate in developing a proposal to end dual management of border operations.

NTEU submitted comments to GAO on its draft report which were incorporated into the final report. Since NTEU's submission, the National Performance Review (NPR) has addressed the issue of improvements in border management. In addition, Treasury, Justice, Customs and INS have all had the opportunity to respond to the GAO Report.

We believe Congress and interested parties should pursue the recommendations of the NPR before any type of reorganizations are considered. NPR recommends that Customs and INS submit a report to Congress, by January 1, 1994 on how the agencies will better coordinate their functions. In its report, the GAO cited some very real problems between these two agencies. Before any far reaching reorganizations take place, we would urge this subcommittee to look at the problems which GAO noted in its report and demand that the agencies address the problems in their submission to Congress as part of the NPR recommendations.

For example, based on the problems raised by GAO, we would recommend Customs and INS provide the following information to Congress as part of its NPR submission:

1. A standard for the maximum amount of traffic backup tolerable before

opening additional primary lanes and a plan for implementing the standard.

2. A training plan for Customs and INS Inspectors for cross-designation as well as a program to monitor the effectiveness of this training.

3. A plan to monitor the performance of cross-designated inspectors by jointly studying the results of referrals from primary to secondary inspections.

4. A long range plan for land border inspections.

5. A requirement that the performance appraisal system encompasses the full range of cross designated functions.

6. A plan to better coordinate the functions of INS and Customs on a daily basis at individual land ports.

Obviously, these tasks would require ongoing Congressional oversight. With sufficient Congressional oversight, we believe these agencies can work out their coordination problems.

The option considered by GAO and the Panel of experts to create an additional independent agency combining the Customs Service and INS is entirely premature, and if implemented would be ineffective and cost prohibitive. GAO only visited 3 southwestern land ports of entry. There are over 130 land border ports-of-entry. In addition, GAO did not visit

any of the 120 air and seaports. It has not yet been ascertained that the problems of coordination are rampant throughout INS and Customs. Rather, it has only been ascertained that coordination problems exist at the land borders.

The GAO Report cites no reason why these various functions of the two agencies ought to be consolidated. Nor are any reasons readily apparent. As noted above, the focus of the fieldwork performed by GAO, as well as the studies performed over the past two decades by executive and congressional branch organizations, have primarily focused on the problems at land border ports of entry. Nor is it at all clear how all the functions of INS and Customs could be consolidated. It is unclear how duty assessment on an imported product would be interrelated with employment status of an illegal alien. The problem has been correctly identified at the land borders and it need not be expanded beyond that parameter. To do so would invite a plethora of coordination problems and disruptions.

Significant expenditures would be required to dissolve and merge the inspection and patrol functions of Customs and INS into a new agency. The purported benefits of a merged inspection agency do not justify the expense associated with its establishment. Some of the expenses are obvious: new forms and stationery would be required, new uniforms would have to be purchased for 10,000 inspectors, and all vehicles and facilities would have to be redecorated to reflect the identity of the new agency. The travelling public must be able to accurately identify the officers and agency with which they are dealing. These expenses are unavoidable.

Other expenses are not so obvious. Significant tax dollars would have to be devoted to fund staff tasked with processing and revising personnel and other administrative records. Merging of the two employee groups may result in forced relocations and associated lodging and moving expenses. In the event that personnel are reduced, expensive and time consuming reduction in force procedures will have to be utilized. INS inspectors would require extensive training in the numerous laws and regulations currently enforced by Customs inspectors.

These types of expenditures in pursuit of a dubious goal, a merged border agency, cannot be justified. Such expense is not consistent with our government's current cost consciousness and deficit reduction efforts.

The GAO Report recommends that this new consolidated agency be an independent agency. If it is determined to merge the entire Customs and INS into one agency, we believe an independent agency would have many pitfalls. First, independence would weaken important links between the agency and the President and between the agency and other agencies in Treasury and Justice. In addition, there is a threat an independent agency could work at cross purposes with Treasury and Justice. An independent agency in theory is responsible to the President. However, we all know that the President of the United States is too busy to oversee each independent agency. Instead this duty is delegated to a staff person or OMB. Either of these parties would not have the policy confidence of an cabinet level department. Both Customs and INS would lose departmental guidance and true Cabinet Representation.



NTEU believes that if cooperation between the agencies becomes impossible then we would recommend vesting responsibility for primary lane inspections with one agency: the U.S. Customs Service. This option has had widespread support among Customs, INS, GAO, Members of Congress and other interest groups. GAO itself stated:

The problems in coordinating the staffing of the primary lanes would be eliminated because one agency would be accountable for the enforcement operations and traffic flows at the ports. The competition and interagency rivalry would be eliminated. In addition, requests for appropriations could be handled through one Congressional Committee.

Obviously, the problem of lopsided staffing would no longer exist. The problems of facilitation and enforcement would become the number one focused priority at the border entries rather than dickering between the two Agencies.

GAO recognized the advantages of pursuing this option but rejected it because in the past "policy makers have not acted." We believe that this is not an adequate reason to reject an option. Although there have clearly been jurisdictional disputes in the past, if it is in the nation's best interest to merge the primary inspection function into one agency, we believe that GAO and Congress must rise to the occasion and insist upon the course of action that best serves our nation.

There has always been a strong Congressional interest in the consolidation of primary inspections, but in a manner consistent with both the facilitation of persons arriving and an improvement in the interdiction of drugs, and other laws of the United States. Airline and airport authorities have been pressing the Congress and every Administration for over 50 years to make a decision on consolidation. It may also be assumed that they will be fully supportive of this consolidation option. Border city officials and highways and bridge authorities should also be fully supportive of a consolidation decision because it will give them one point of contact for facility decisions.

Last year, Customs Inspectors and Canine Enforcement Officers at our ports of entry registered important gains in the war on drugs. The Office of Inspection and Control, the branch of the Customs Service that includes Inspectors and Canine Enforcement Officers, was responsible for the seizure of 1,976 lbs. of heroin and 130,254 lbs. of cocaine. INS lacks the focus, training and resources to adequately protect our borders against the influx of illegal drugs.

With the passage of NAFTA, drug interdiction at our borders will become increasingly important. Drug enforcement experts believe NAFTA will increase the flow of illegal drugs into our country. As more goods come legitimately over the border, there will be greater opportunity to smuggle drugs. The continuing need for a strong drug enforcement program is unquestioned.

Obviously, the war on drugs is far from over. The social effects on drug abuse in our cities is readily apparent. At this stage of the war on drugs, it would be disastrous to involve the already over-taxed Immigration and Naturalization Service in the drug war by assigning it primary inspection responsibilities at land border ports. The Customs Service has consistently been provided more staff and resources than INS. The nation is best served by a full cadre of Inspectors at the border. The Customs Service has the staff and the resources to be the primary border agency. The Customs Service employs 6,000 Inspectors; whereas INS employs 4,000 Inspectors. For FY'93 Congress appropriated \$1,315,917,000 for salaries and expenses for the U.S. Customs Service and \$ 965,000,000 for salaries and expenses of the INS.

The GAO draft report recognized that Customs clearly has many more resources at its disposal and this is unlikely to change at any time in the near future.

By 1992, the Southwest border staffing imbalance became more pronounced, with Customs authorized a total of 1,603 inspectors and INS a total of 925 (683 full time inspectors and 242 temporary and/or part time inspectors.) Further, Customs received general appropriations authority to hire an additional 300 inspectors for the southwest border in fiscal year 1993. In contrast, discussion with Office of Management and Budget (OMB) officials and congressional staff indicated little prospect for additional appropriations to increase INS inspector resources.

While it is unfortunate that INS has been unable to remedy its staffing shortage, the reality of the situation remains. If INS is unable to meet the challenge of staffing its own agencies, it seems virtually impossible to expect it to receive adequate funding to be the lead agency for all primary inspections.

There are many vital interests at stake in the design of an effective primary inspection system. It is frequently noted that Customs, as the nation's primary border management agency, has had delegated to it by 40 other government agencies the responsibility for carrying out the laws and regulations of those agencies at the border. Customs has a broad, diverse and complex mission as contrasted to the single mission of INS. It should be remembered that inspection of travelers for immigration purposes is a straightforward procedure. If Customs is merged into INS, INS would need to learn the laws of forty different agencies. Whereas, if INS is merged into Customs, Customs would only need to be better acquainted with INS laws and regulations.

Thank you for the opportunity to share our views on this important matter. We hope this Subcommittee will work with all the interested parties to ensure better coordination at U.S. land border and INS and Customs generally. We believe this is the first necessary course of action. I would be happy to answer any questions you have on this matter.



Mr. CONDIT. Well, let me thank you for being here. I know you were here earlier this morning too. You have been here for the entire hearing. I appreciate your patience very much.

I have got a series of questions for both of you. If at any time you want to respond to them in writing, you are welcome to do that.

You have heard discussion this morning from Ms. Sale and Mr. Banks on the pay and the discrepancies in the pay of inspectors from different agencies at the same level, doing the same job. I will ask you the same question. Does the difference in pay have any adverse impact on the employees' morale?

Ms. BILLETT-ROUMELL. As Ms. Sale had pointed out and Mr. Banks, there was just this past year a change in the overtime system for Customs' employees. In the past, since 1933, they have had identical overtime systems. Now their difference in pay is vast. It is more vast than she had even described it in her testimony in terms that one inspector could be doing the identical work to another and making vast amounts of different money. Our people, our inspectors have pointed out to us that this is very demoralizing for them and that they do not think it is fair, that they should be paid at a different rate than the INS inspectors.

Mr. CONDIT. Of course, you may not want to say anything about that, right?

Mr. SMITH. I do not know that much about the new Customs' overtime law except what I have seen. I do not think it is that great of a thing necessarily, compared to what they used to have. There was an effort about a year ago to change the overtime for INS inspectors—somewhat similar, but not even as good as what Customs got, and we were able to stop that in the House, because it was even worse than what Customs got. I can certainly see where people working side-by-side, it could cause some problems or some morale problems.

Mr. CONDIT. Do both Customs and INS use K-9s in their border efforts?

Ms. BILLETT-ROUMELL. Customs does.

Mr. SMITH. INS does in most of its ports also, yes.

Mr. CONDIT. How long have the agencies been using dogs? Do you know?

Mr. SMITH. Immigration, if I could say, has been doing it for a much shorter time than Customs. Is there any truth to the reports that we received that Customs' workers resent the fact that INS workers are also using K-9 dogs now?

Mr. SMITH. I would only say I have heard rumors from some of our people that—remarks have been made. I do not know if they resent it.

Mr. CONDIT. What is that about? Why is that?

Mr. SMITH. I really cannot answer that for sure, Mr. Chairman. I just—you know, from inspectors, as I am traveling around the country, they will say sometimes Customs inspectors do not like the idea that we have dogs now. You know, it is a turf problem. I do not know. They work side-by-side wonderfully, I mean, the inspectors do. That has never caused a problem with them working with each other.

Ms. BILLETT-ROUMELL. I could speculate that because of the talk of merging the agencies, that there is perhaps—a turf problem.

Mr. CONDIT. Mr. Smith, in your prepared testimony, you stated that the GAO report is not representative of the whole country because GAO looked at only Laredo, El Paso, and San Diego.

Mr. SMITH. El Centro.

Mr. CONDIT. El Centro. What percentage of the Nation's border traffic do these three areas handle all together? Do you know?

Mr. SMITH. I really could not give you a figure today. I could certainly try to get that from the agency, Mr. Chairman.

Mr. CONDIT. Do you think there is any validity to—and you both can respond to this—to the 60-year theory, that they relied on a lot of information that had been accumulated over the last 60 years and that they did not want to go back over old information—that they found no reason to do that? Do you have any thoughts to that?

Mr. SMITH. I believe they probably did use a lot of old information that has been—I cannot go back 60 years personally. I have been around for 19 years.

Mr. CONDIT. Should they not have done that, in your opinion?

Mr. SMITH. I do not think they should have, no. I think they should have gone and got some new data that is current.

Ms. BILLETT-ROUMELL. We would strongly agree with that. I think that, in light of the fact that there has been a change in administration that that in itself would be a big change in the last 10 years of why things could look very differently in the upcoming future than it has in just even the recent past.

Mr. Smith suggested in his prepared statement that because there is very little duty collected at primary inspection, primary inspections might be left solely up to INS. What are your thoughts about that suggestion?

Ms. BILLETT-ROUMELL. We do not agree with that. As I stated earlier, we believe that Customs has a very important role in the primary situation, in terms of being able to see people. This is what they have specifically been trained in. As Ms. Sale, herself, said, drugs are the primary mission of the Customs Service and not the INS service. By putting only INS on the primary lanes, you lose the talent and the training which is specific to Customs inspectors, in terms of the selectivity of noticing passengers coming over and seeing people who look suspicious, in terms of carrying drugs. I think that it is important for that reason that there are some, at least at a minimum, dividing it for having Customs inspectors on the primary lanes.

Mr. CONDIT. Any response to that?

Mr. SMITH. Well, I do not disagree totally. I do not believe, if that would ever happen, that we would lose that training and that sixth sense, so to speak. Any law officer, no matter who they work for, after they have been on the line or in the trenches so to speak for a while, they are going to develop that. If need be, I think additional training could certainly help to develop it even quicker, if it ever came to that point.

Mr. CONDIT. Ms. Billett-Roumell, your National President, Mr. Tobias, states in his prepared remarks that, with congressional oversight, INS and Customs, can work out their coordination problems. Yet he also suggests that INS would find it very difficult to

inspect, as Customs does, for violation of the rules of 40 other Government agencies. It sounds as though the NTEU does not really think that INS is capable of performing its cross-designated responsibilities. Is that so? Is that his view?

Ms. BILLETT-ROUMELL. Let me clarify that. I think that we believe coordination could be worked out to the degree of primary lanes and having cross-designated inspectors performing primary functions. If there is a suggestion to have INS be the sole agency for primary inspections, we do not think that they would have the ability to carry out both primary and secondary lanes, in terms of enforcing all of the laws that Customs need to enforce.

Mr. CONDIT. Doesn't INS already have to enforce all of the Customs' rules during primary inspection?

Ms. BILLETT-ROUMELL. Well, the primary inspection more is kind of just a gate and it is just a cursory look to see if there is something suspicious going on. Then it gets referred to a secondary area where, really, that is where the intense questioning comes in and that is really where the different training comes out between the two groups of inspectors. If there is any kind of drug problem or any kind of immigration problem, they go to totally different areas, and there is no overlap at all in the secondary area.

Mr. CONDIT. If we proceed ahead, say the administration proceeds ahead and they decide that there will be one agency, can you give me your best pitch why it should be your agency?

Ms. BILLETT-ROUMELL. Do you want to go first?

Mr. SMITH. I mean, I think Immigration officers, a lot of our training, especially from the southern border, we possess a language training that no other law enforcement agency possesses to the same degree that we do. All of our agents are required to become quite proficient in the Spanish language as part of their first year of training. No other law enforcement agency requires that. I believe that puts our people one step up, ahead of anybody else right there. Because, primarily, on the southern border, for instance, you are going to be dealing with people who speak Spanish, or a lot of people.

A lot of the training that both agencies go through is duplicated down in Georgia, and then it goes off and Customs has their specific specialized training, and we have our specialized training. I mean, I have seen both agencies of people work, and I think both agencies possess thousands of qualified and very professional officers.

I have heard some testimony today that there may be this turf battle, whatever. I have never seen that come into play where they would not do their job as a result of that. They back each other up on a daily basis. That certainly has never stopped them from doing their job.

Ms. BILLETT-ROUMELL. I would say first that Customs has, as far back on record, always been given more congressional support in terms of staff and resources. While there may be some injustice in that, that is the way it has been. The Nation is best served by having as many inspectors as possible at these ports of entry. That would be my first reason.

The second reason would be that Customs enforces 40 different laws for 40 different agencies, where INS is primarily concerned



with just the influx of people coming in. It is going to take a lot more training to train all of the INS inspectors in all of these 40 different laws than it is going to be to train the Customs inspectors in one law. Customs inspectors also have title 19 authority for drug seizures, which I do not believe that INS has.

I think that INS is going through a lot of growth right now. This subcommittee has just written a report about how it is having trouble holding itself together. It seems like it is making a lot of the necessary changes. It seems to me to say, now you—INS—are going to take over the mission of the Customs Service—whatever pyramid is being fragily built will make that pyramid go over. Those would probably be my—some of the reasons that we would think Customs should be the primary border agency.

Mr. CONDIT. That question may have been a little bit unfair, but you both did very well with it. I appreciate it very much.

I am curious. I cannot recall whether it was Mr. Banks or Ms. Sale who talked about a 3-year period before an employee was up to speed. Is that correct?

Mr. SMITH. In the Immigration Service, for instance, an inspector normally would start at the GS-5 pay grade. The full journeyman grade is a GS-9. They attain that in 2 years.

Mr. CONDIT. Well, I took her to mean that the 3 years meant that they were fully capable after 3 years of making some of the discretionary decisions as well as the intellectual decisions that needed to be made. Did you take it like that?

Mr. SMITH. That is the way I understood that. I would not necessarily agree. Some people maybe have that ability after 6 months. I do not think it normally takes 3 years though.

Mr. CONDIT. It would seem to me, if it does, that we certainly need to expedite the training in some way.

Mr. SMITH. I say that—being an experienced INS officer, I feel I can say that it does not take 3 years I do not believe.

Mr. CONDIT. Did you have any comment to that?

Ms. BILLET-ROUMELL. I am not aware that the Customs Service has any kind of 3-year training program.

Mr. CONDIT. You heard her say that though?

Ms. BILLET-ROUMELL. I did. I did. I was not sure if she meant that where they were different tasks they could assume or what exactly she was referring to happens at the 3-year mark. I know that we put our people out—and I am sure that INS does it pretty quickly after they are hired on. I guess they get different levels of responsibility.

Mr. CONDIT. We should have jumped on that. We will followup. I took it to mean that this person was at their optimum, maximum, ready-to-go, robo-cop kind of person, in 3 years.

Mr. SMITH. Well, I think that is the way I understood it too. If I can just add something? For instance, in many of our locations, like in the Honolulu Airport, I work in Honolulu, we have inspectors working the full range of duties who have never been to training. They have never been to the academy.

Mr. CONDIT. How well do they do?

Mr. SMITH. A lot of them do very well. The vast majority of them do very well, after on-the-job training.

Mr. CONDIT. Why are they not going to training?



Mr. SMITH. Some of them are not even full-time inspectors. They are what we call other than full time. We actually have some supervisors who have never gone to the actual training.

Mr. CONDIT. Tell me what is other than full time?

Mr. SMITH. A 32-week, part timers.

Mr. CONDIT. So, you do not have to pay them the equivalent of what you do a full timer? They do not get the same benefits?

Mr. SMITH. Exactly.

Mr. CONDIT. They do not have to have the same training? What percentage do we have of those kind of people?

Mr. SMITH. I would say in the INS throughout the country, other than full time, I would say—a rough guess, I would say 25 to 30 now.

Ms. BILLETT-ROUMELL. I am not sure what it is in Customs, but it definitely presents a problem in terms of the level of training that these people have.

Mr. CONDIT. Good point. We will have to look into that.

Mr. SMITH. I would like to say something. It is almost like they have created a caste system when they do that, which we do not think is right, even though these people do have a very good job for what resources they are given.

Mr. CONDIT. Do either one of you have any kind of feelings about the proposed border fee, crossing fee?

Mr. SMITH. Certain aspects are very attractive, depending on what they would do with the money. It would certainly for employ more people, equipment to do the job. Like we have heard, if they did something like that in San Ysidro, they would be probably backed up to Pillowy trying to get through the line. There are pros and cons.

Mr. CONDIT. If it became a practical thing it could be made functional and the money given back into the Departments, do you think that might be reasonable?

Mr. SMITH. I think so, yes. Because we have seen in the last 5 or 6 years the user fee at the airport.

Mr. CONDIT. Right.

Mr. SMITH. We have been able to hire a lot of people, equipment because of that money not coming out of the actual budget, which we could not have done otherwise.

Mr. CONDIT. Right.

Ms. BILLETT-ROUMELL. We have not looked closely at the border fee. My initial response to it is that I would think you have to weigh out how many more inspectors you have to get to collect the border fee, or however it is going to be collected, and at what level does it get to the point that you are having more staffing? If it does ultimately lead to greater facilitation going on at the borders, yes, we would support it.

Mr. CONDIT. Do you just wave a lot of cars through? Do they really do that? Am I wrong?

Ms. BILLETT-ROUMELL. In different parts, our people are very concerned about some of the enforcement.

Mr. CONDIT. So, you have one of those baskets that they throw their money in like they do in the turnpike—I mean, the ones you wave through, if you are going to do it anyway, right? I was being a little facetious.

Let me ask you just one last question regarding the proposal. The subcommittee started about a year ago—a little over a year ago, to look at this issue. We wanted to take a very thoughtful approach and come up with some suggestions that would be helpful to you folks and to the administration. During the course of that time, it seems like every month someone comes up with a proposal for how to solve the immigration problem, whether it is a border fee, or using the military or what have you. What do you think about this suggestion that the National Guard or the military be used along the border?

Mr. SMITH. I personally, having worked in the Border Patrol for 5 years, I am not so sure it is a real good idea because of the training problem, as was talked about today. They do not have the language ability. They are not trained to deal with—like the Border Patrol—like somebody said—from 5 to 85, and that is not even counting having to deal with the criminal type. I am just talking about your normal illegal alien, the nonviolent type.

Mr. CONDIT. Do you think that what was suggested possibly by Mr. Banks and Ms. Sale, that they were to be used not actually right on the border, but in supportive roles, whether it was building the structures or for—listening devices, visual devices, those kinds of things. Is that a reasonable thing to expect?

Mr. SMITH. Yes. I think that would be kind of in the back lines, so to speak.

Ms. BILLETT-ROUMELL. I think that the National Guard has been used more with the Border Patrol and less with the ports of entry, as I understand it. So, we have not really taken a close look at what its role would be and if they are considering using it actually at the ports of entry.

Mr. CONDIT. Well, I really appreciate your being here today, and I appreciate both of your patience waiting through the whole hearing. Would you agree, if we have any additional followup questions, that we could call you and mail them to you and ask you to respond to them? Would you do that for us?

Mr. SMITH. Certainly.

Ms. BILLETT-ROUMELL. Sure.

Mr. CONDIT. Thank you very much.

Ms. BILLETT-ROUMELL. Thank you very much.

Mr. CONDIT. Happy holiday to both of you.

Ms. BILLETT-ROUMELL. Thank you.

Mr. SMITH. Thank you.

Mr. CONDIT. Is there anyone in the audience that wishes to speak to this committee?

[No response.]

Mr. CONDIT. If not, the meeting is adjourned.

[Whereupon, at 2:20 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

# APPENDIX

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MATERIAL SUBMITTED FOR THE HEARING RECORD



Department of Justice

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STATEMENT OF

WEBSTER HUBBELL

ASSOCIATE ATTORNEY GENERAL

BEFORE THE

SUBCOMMITTEE ON INFORMATION, JUSTICE,

TRANSPORTATION AND AGRICULTURE

COMMITTEE ON GOVERNMENT OPERATIONS

CONCERNING

BORDER MANAGEMENT ISSUES

PRESENTED ON

DECEMBER 10, 1993

As we all know, the Immigration and Naturalization Service (INS) and the U.S. Customs Service (Customs) share the responsibility for border inspections. The General Accounting Office (GAO) examined the issues surrounding border management in its June, 1993, report entitled Customs Service and INS: Dual Management Structure for Border Inspections Should Be Ended (GAO/GGD-93-111).

In that report, GAO recommended that the Director of the Office of Management and Budget (OMB), working with the Attorney General and the Secretary of the Treasury, develop and present to Congress a proposal for ending this dual management of border inspections. GAO concluded that policymakers have two basic options: (1) to place the responsibility for land border primary inspection with one agency, or (2) to merge the functions of INS and Customs into a single, independent agency. The Vice President's National Performance Review (NPR) also addressed this issue and recommended that both Departments work together to improve significantly federal border management.

In response to the GAO report and NPR recommendations, Department of Justice officials, as well as INS officials, have been participating in a series of high level sessions with OMB, Treasury Department officials, and



Customs officials to evaluate and improve the management of border operations. The Attorney General personally promised Vice President Gore that the Department would work to resolve these issues within the next two years. She has been -- and will continue to be -- determined to address and solve the identified problems in coordination with the Secretary of the Treasury and the Director of OMB.

The efforts taking place to resolve these issues, which are discussed in more detail in INS Deputy Commissioner Chris Sale's testimony before this subcommittee, are serious and ongoing. These efforts already have improved the working relationship between INS and Customs, and we look forward to continued improvements.

Please be assured that the Attorney General, I, and other Department of Justice officials are fully committed not only to these ongoing efforts, but also to providing this Nation with strong, effective and efficient border enforcement. We are confident that these problems will be solved in the near term and in the best interests of the American public.



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